

# ***RUSH COUNTY, KANSAS***

## ***Subdivision Regulations***

***Rush County Joint Planning Commission***

***Edition of June, 2001***

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**Rush County, Kansas  
 Cities of Bison, LaCrosse, McCracken, Otis,  
 Rush Center and Timken, Kansas  
 Subdivision Regulations**

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These regulations shall be known and may be cited as the "Subdivision Regulations of Rush County, Kansas", and shall hereinafter be referred to as "these regulations." As noted within the Article 1-103 herein, these Regulations shall also be applicable within the cities of Bison, LaCrosse, McCracken, Otis, Rush Center and Timken. As such, these Regulations may also be cited as the "Subdivision Regulations for Bison, LaCrosse, Liebenthal, McCracken, Otis, Rush Center or Timken."

These regulations prescribe the minimum design requirements and approval procedures for the development of new subdivisions and resubdivisions of land within Rush County and the cities of Bison, LaCrosse, Liebenthal, McCracken, Otis, Rush Center and Timken, Kansas.

**1-102 PURPOSE**

The division and improvement of land for both rural residential and urban development has a significant and lasting impact upon the physical environment of Rush County and the cities of Bison, LaCrosse, Liebenthal, McCracken, Otis, Rush Center and Timken, Kansas, and it places increasing demands upon public facilities and services. The creation of new streets, lots and utility systems requires significant public and private capital investments. Failure to properly size and construct adequate sewers and streets, ensure available water supplies, manage storm water runoff and erosion, and plan for public services may result in physical and environmental problems which are difficult and costly to resolve. The importance of assuring the compatibility of new development with the plans and needs of Rush County and the cities of Bison, LaCrosse, Liebenthal, McCracken, Otis, Rush Center and Timken must be protected in the interest of the public health, safety and general welfare.

These regulations sets forth uniform rules and procedures for the division and improvement of real property within Rush County and the cities of Bison, LaCrosse, Liebenthal, McCracken, Otis, Rush Center and Timken, to assure that new subdivisions are properly planned and integrated with existing streets, utilities and other public facilities systems. These regulations are further intended to prevent potential environmental hazards; to coordinate the use of private and public resources to achieve planned and orderly land development through proper location and design of streets, building lines, open spaces, and utilities; and to establish standards by which streets, utilities and other physical improvements shall be erected, constructed or installed.

**1-103 JURISDICTION**

This Code shall apply to all of the land within Rush County and the cities of Bison, LaCrosse, Liebenthal, McCracken, Otis, Rush Center and Timken, Kansas.

**1-104 APPLICABILITY**

These regulations shall apply to any person desiring to do any of the following:

1. Subdivide or further subdivide any lot or tract of land into two or more parts.
2. Resubdivide any lot or tract of land that has previously been subdivided into two or more parts.
3. Establish any street, alley, sidewalk, park or other property intended for public use or for the use of prospective or existing owners of lots or tracts of land fronting on or adjacent to such property.

The owner(s) of any land located within Rush County and the cities of Bison, LaCrosse, Liebenthal, McCracken, Otis, Rush Center and Timken, Kansas, subdividing said land in a manner previously cited shall cause to be prepared a subdivision plat in accordance with the provisions of these regulations. No building permit shall hereafter be issued by Rush County or the cities of Bison, LaCrosse, Liebenthal, McCracken, Otis, Rush Center and Timken, Kansas, or other permitting authorities, for construction on any land that has not been subdivided in compliance with these regulations and all other applicable state laws, Rush County resolutions and City of Bison, LaCrosse, Liebenthal, McCracken, Otis, Rush Center and Timken ordinances in effect at the time of the subdivision of said land.

**1-105 EXEMPTIONS**

These regulations shall not apply in the following instances or transactions:

1. Any lot or tract of land located within the area governed by these regulations that has been legally subdivided or platted prior to the effective date of these regulations.
2. A transaction between owners of adjoining tracts of land or lots which involves only a change in the boundary between the land owned by such persons, provided no additional lots are created and such tracts of land or lots comply with the design requirements for lots in Section 4-105 of these regulations and applicable provisions of the Rush County Zoning Regulations.
3. The use of land for street or railroad right-of-way, a drainage easement or other public utilities subject to local, state or federal regulations, provided no new street or easement or access is created or involved.
4. Land used for highway or other public purposes relative to the dedication of a parcel of land for a public use or instruments relating to the vacation of land impressed with a public use.
5. A correction of a description in a prior conveyance, provided that such a conveyance shall be clearly labeled as a "Correction Conveyance" and shall clearly identify the prior conveyance which is the subject of correction and the error contained in such prior conveyance.
6. Any lot split approved in compliance with the requirements of these regulations.



7. The issuance of permits for repairs, maintenance, continuance of an existing use or occupancy, including the expansion or rebuilding of an existing principal and/or accessory structure. This provision shall apply only when the repairs and/or expansion conform to all applicable ordinances, resolutions and codes relating to lot coverage, building setbacks and zoning. In addition, no building permit, zoning certificate or occupancy certificate shall be issued for a building or structure on any unplatted lot, tract or parcel of land until the applicant has first shown, by satisfactory evidence to the building permit issuing officer or his (her) delegated agent, that the following conditions exist:
- A. The tract or parcel is not landlocked, i.e., has proper frontage and access to a public road or street.
  - B. The tract or parcel has access to all utility and telephone services by way of a recorded easement dedicated to the public. The easement serving the property shall not be less than 20 feet in width where adjacent to a rear property line or less than 10 feet in width where adjacent to a side property line. The easement shall extend continuously to a service entrance point and exit point for all the utilities and telephone services.
  - C. Any required permit for utility service has been obtained.
  - D. The proposed building site, as designated on a plot plan, is not located on land subject to flooding. Any designated channels or waterways which exist on the property and which carry runoff from adjacent property or public roads have been protected by a recorded grant of easement, dedication or similar devise.
  - E. If the property is located adjacent to a public road right-of-way which does not conform to the requirements of these regulations, additional right-of-way shall be granted by dedication or easement as may be required to conform to the provisions of these regulations.

It shall be the responsibility of the property owner or his agent to provide the Zoning Administrator copies of recorded instruments which show both the name of the current owner and a complete legal description of the property for which an exemption is requested.

Any request made in writing to the Zoning Administrator for a determination of being exempt from these regulations shall be answered, in writing either in the affirmative or negative within 30 days of the filing of the request, or the exemption shall be considered granted.

### **1-106 DEFINITIONS**

For the purpose of these regulations, certain terms and words are hereby defined. Words used in the present tense shall include both the past and the future, and words used in the future tense shall include the present. Words in the singular number shall include the plural and words in the plural number shall include the singular. The word "building" shall include the word "structure"; the word "dwelling" shall include the word "residence"; the word "lot" shall include the word "plot"; the word "person" shall include individuals, firms, corporations, associations, governmental bodies and agencies, and all other legal entities. The word "shall" is mandatory and not directory while the word "may" is permissive. The phrase "used for" shall include the phrases "arranged for", "designed for", "intended for", "maintained for", and "occupied for". Words or terms not herein defined shall have their ordinary and customary meaning in relation to the context.

1. **ACCESS:** The right to cross between public and private property allowing pedestrians and vehicles to enter and leave property.
2. **ADMINISTRATIVE OFFICER:** See Zoning Administrator.
3. **ALLEY:** A public or private thoroughfare which provides only a secondary means of access to abutting property.
4. **APPLICANT:** The owner of a tract of land, or his duly designated representative, for which an amendment has been requested.
5. **ARTERIAL STREET:** See Major Street.
6. **BLOCK:** A tract of land bounded by streets, or by a combination of streets and public parks, cemeteries, railroads, rights-of-way, shoreline or waterways, or boundary lines of municipalities.
7. **BOND:** Any form of security including cash deposit, surety bond, collateral, property or instrument of credit in an amount and form satisfactory to Rush County and the cities of Bison, LaCrosse, Liebenthal, McCracken, Otis, Rush Center and Timken, Kansas. All bonds shall be approved by Rush County and the cities of Bison, LaCrosse, Liebenthal, McCracken, Otis, Rush Center and Timken, Kansas, whenever a bond is required by these regulations.
8. **BOUNDARY SHIFT:** A change in the boundary between adjoining lots, tracts or parcels of land that does not create an additional building site; provided such transaction, when completed, shall result in tracts of land or lots which comply with the design requirements for lots of these Regulations and with applicable provisions of the Rush County Zoning Regulations.
9. **CITY:** The Governing Body of the cities of Bison, LaCrosse, Liebenthal, McCracken, Otis, Rush Center and Timken, Kansas, or the delegated staff, boards or agencies thereof.
10. **CITY ATTORNEY:** The City Attorney, or such licensed attorney designated by the City or the City Attorney, responsible for the prosecution of all violations of these regulations in accordance with the provisions contained herein, and as established by law.
11. **CITY ENGINEER:** The City Engineer, or such licensed engineer designated by the City or the City Engineer, to provide engineering assistance in administering these and other ordinances and regulations governing areas of normal responsibilities assigned to the City Engineer.
12. **COLLECTOR STREET:** A street intended to move traffic from local streets to arterial streets.
13. **CORNER LOT:** A lot abutting upon two or more streets at their intersection.
14. **COUNTY:** The Board of County Commissioners of Rush County, Kansas, or its delegated staff, boards or agencies.

15. **COUNTY HEALTH OFFICER:** The Director of the Rush County Health Department, or such person designated to administer the health regulations of Rush County, Kansas.
16. **CUL-DE-SAC:** A local street with only one outlet and having a circular turnaround for the safe and convenient reversal of traffic movement.
17. **DEAD END STREET:** A street having only one outlet.
18. **DEVELOPER:** The owner, or any other person, firm or corporation authorized by the owner, undertaking proceedings under the provisions of these regulations for the purpose of subdividing land.
19. **DOUBLE FRONTAGE:** A lot having a frontage on two nonintersecting streets, as distinguished from a corner lot.
20. **EASEMENT:** A grant by a property owner to specific persons or the public to use land for a specific purpose or purposes. Also, a right acquired by prescription.
21. **FINAL PLAT:** The map, plan or record of a subdivision and any accompanying materials, as described in these regulations. The final plat is the instrument to be recorded with the Rush County Register of Deeds as the subdivision plat.
22. **FLAG LOT:** A lot, tract or parcel of land that provides minimum frontage to a road or street by a narrow strip of land and whose main body of land lies to the rear of the property.
23. **FRONTAGE:**
  - A. **STREET FRONTAGE:** All of the property on one side of a street between two intersecting streets (crossing or terminating), measured along the line of the street, or if the street is dead-ended, then all of the property abutting on one side between an intersecting street and the dead-end of the street.
  - B. **LOT FRONTAGE:** The distance for which the front boundary line of the lot and the right-of-way the street are coincident.
24. **FRONTAGE ROAD:** A public or private, marginal access roadway, generally paralleling and contiguous to a street or highway, providing access to abutting properties. A frontage road is designed to promote safety by eliminating unlimited ingress and egress to the principal street or highway by providing points of access at generally uniformly spaced intervals.
25. **GOVERNING BODY:** The Board of County Commissioners of Rush County or the City Council of the cities of Bison, LaCrosse, Liebenthal, McCracken, Otis, Rush Center and Timken, Kansas.
26. **GRADE:** The slope of a road, street or other public way (rise/run), specified in percent (%).
27. **IMPROVEMENTS:** All facilities constructed or erected by the developer and/or public entity within a subdivision to permit and facilitate the use of lots or blocks for a principal residential, commercial or industrial use.

28. **LOCAL STREET:** A street intended to provide access to other roads from individual properties.
29. **LOT:** A portion of a subdivision or other parcel of land intended as a unit of ownership and occupied or intended to be occupied by one main building and an accessory building or a complex of buildings, including the open spaces and parking required by these regulations and/or the Rush County Zoning Regulations. A lot may be more than one lot of record or may be a metes-and-bounds described tract having its principal frontage upon a street.
30. **LOT SPLIT:** The dividing of a lot in a recorded plat into not more than two new building sites or parcels for non-industrial lots; and two or more new building sites for industrial lots which meet the requirements of these Regulations and the Rush County Zoning Regulations.
31. **MAJOR STREET:** An arterial or thoroughfare which primarily serves as a transportation link for vehicular traffic and discourages direct access from residential lots.
32. **METES AND BOUNDS:** A method of describing the boundaries of land by directions and distances from a known point of reference.
33. **MONUMENT:** The device, usually a metallic bar or tube, used to mark and identify the corners in the boundaries of subdivisions or lots.
34. **OWNER:** Any person, group of persons, firm or firms, corporation or corporations, or any other legal entity having legal title to or sufficient proprietary interest in a tract of land.
35. **OFFSET STREET:** A continuous street whose centerline is not tangent through an intersection.
36. **PRELIMINARY PLAT:** The preliminary drawing or drawings, described in these regulations, indicating the proposed manner or layout of the subdivision.
37. **RESERVE:** An area of property within a subdivision which is platted for specific uses, e.g., open space, landscaping, entry monuments, recreational facilities, utilities and drainage, floodway, etc. Typically, future ownership and maintenance responsibilities for a reserve is set forth by a restrictive covenant which provides that a homeowners or lot owners association will hold title to the reserve and therefore be responsible for the reserve's maintenance. The restrictive covenant may provide for ownership and maintenance to be tied to the ownership of an adjacent lot. Ownership and maintenance is not assigned to an individual, partnership or corporation except in the case of a reserve platted for possible future sales to a public body for a public facility.
38. **RESTRICTIVE COVENANT:** A restriction on the use of land traditionally set forth in a deed. Restrictions are also placed of record by separate instruments including homeowner association agreements. The restrictive covenant usually runs with the land.

39. **RESUBDIVISION:** A change in a map of an approved or recorded subdivision plat if such change affects any street layout shown on such map, any area reserved thereon for public use, or if it affects any map or plan legally recorded prior to the adoption of any ordinances or regulations controlling subdivisions. Lot splitting may be allowed as specified within these regulations.
40. **RIGHT-OF-WAY:** A strip of land dedicated or reserved for use as a public way, which normally includes streets, sidewalks, or other public utility or service areas.
41. **SETBACK:** The distance between a building and the lot line, or road right-of-way line, whichever provides the desired minimum distance.
42. **SHORT-FORM PLAT:** A map or drawing of a proposed subdivision containing four (4) lots or less giving, in form suitable for filing in the office of the Rush County Register of Deeds, necessary affidavits, dedications and acceptances, and containing a complete legal description (including references to field markers) sufficient to locate on the ground all streets, alleys, blocks, lots and other divisions of the subdivision.
43. **SIDEWALK:** A paved walkway located along the side of a street.
44. **STREET:** An easement or right-of-way, other than an alley, which provides principal access to adjacent properties.
45. **SUBDIVISION:** Any land, vacant or improved, which is divided or proposed to be divided into two (2) or more lots, parcels, sites, units, plots or interests for the purpose of offering same for sale, lease or development, either on the installment plan or upon any and all plans, terms and conditions, including resubdivision. A subdivision includes the division or development of residential and non-residential zoned land, whether by deed, metes-and-bounds description, map, plat or other recorded instrument.
46. **SUBDIVISION, NON-RESIDENTIAL:** A subdivision which is other than residential, such as commercial or industrial. Such subdivision shall comply with the applicable provisions of these regulations.
47. **WALKWAY:** Any pathway, surfaced or otherwise, intended for pedestrian use only.
48. **ZONING ADMINISTRATOR:** The person or persons authorized and empowered by the Governing Body to administer the provisions and requirements of these regulations.

**1-107 VESTING OF DEVELOPMENT RIGHTS**

The rights of landowners of properties platted or subdivided for residential purposes prior to the adoption of these regulations shall be protected from the requirements of these regulations for use of said land for the intended residential purposes for a period of five (5) years from the time in which such property was first platted or subdivided, provided:

1. Verifiable evidence is presented showing the date in which said plat or subdivision of land was first created. Acceptable evidence shall be:

- a. signed and sealed plats recorded with the Register of Deeds;
  - b. recorded deeds conveying land;
  - c. recorded Affidavits of Equitable Interest on contracts for deed for said tracts of land.
2. Within said five (5) year period actual sales occur resulting in separate owners on the tracts of land.
  3. The division of land was legally done in conformance with the then Rush County Subdivision Regulations.

Except for lots in a recorded plat, any remaining contiguous tracts of land within the area divided under this rule held in common ownership at the conclusion of said five (5) year period shall be considered an unplatted lot, as defined in these regulations, and subsequent divisions of said lot shall be in conformance with the Subdivision Regulations then in effect.

Properties divided or platted for any use other than residential purposes shall not be permitted to develop or further develop except in conformance with these regulations and the Rush County Subdivision Regulations. Persons who obtained a validly issued permit under the previous Rush County Zoning Regulations shall be permitted to develop the property so long as the permit issued under the previous Rush County Zoning Regulations does not expire. Failure to start construction under said permit before the expiration of the permit shall not protect the owner from the provisions of these regulations, the Rush County Subdivision Regulations, or any other applicable Codes or regulations then in effect.

**SECTIONS:****2-101 GENERAL PROVISIONS****2-102 PRE-PLATTING CONFERENCE****2-103 PRELIMINARY PLAT****2-104 FINAL PLAT****2-105 SHORT-FORM PLAT****2-101 GENERAL PROVISIONS**

**This Article establishes uniform procedures and platting requirements for subdivisions subject to these regulations. No final plat shall be filed or recorded with the Rush County Register of Deeds as required by law unless and until it has been acted upon by the Joint Planning Commission and approved by the Governing Body as required herein.**

**2-102 PRE-PLATTING CONFERENCE**

Any person desiring to subdivide land into five (5) or more lots shall be required to attend a pre-platting conference with the Zoning Administrator as a first step to filing an application for a preliminary plat. Owners of proposed subdivisions of less than five (5) lots are encouraged to hold a pre-platting conference; however, it is not mandatory and they may proceed with filing a preliminary plat. Arrangements for the pre-platting conference shall be arranged through the Zoning Administrator.

The purpose of the pre-platting conference is to inform the city staff of possible future subdivisions so that the staff may determine and inform the applicant of the effect, feasibility and compatibility of the proposal in relation to public and private utility systems, public street systems and any County or City development policies and plans. The conference enables the staff to inform owners and their agents of the general conformance or nonconformance of the subdivision proposal with these regulations, identify additional requirements for further processing of the proposal, and to advise them of applicable zoning provisions or conflicts and special design considerations presented by particular environmental features on or affecting the site (i.e. flood plains, excessive slope areas, soil problems, high water tables, etc.).

The landowner or his representative may, if deemed desirable, prepare a schematic drawing of the proposed subdivision in order to receive any pre-plat comments of the staff which may prove helpful in designing the preliminary plat. The sketch plan should convey the location of the proposed subdivision; the general layout of the proposed subdivision including the location and size of streets and the orientation, number and dimensions of the lots; plans for water supply and sanitary sewage disposal; and any particular design problems posed by the existing natural or man-made conditions and characteristics of the site which could benefit from an early discussion.

**In addition to the Zoning Administrator and representatives of the owner(s) intending to subdivide the land, principal participants involved in the pre-platting conference may include representatives of the County, any City and other persons and agencies as applicable. No verbal, written or schematically illustrated statements made during the course of the conference shall be held as legally binding or construed in any way as granting or assuring approval of the proposed subdivision since the Governing Body has final authority on all subdivision plats upon action from the Joint Planning Commission.**

**2-103 PRELIMINARY PLAT**

1. **Application:** A subdivision application form shall be filed with the Zoning Administrator and shall be accompanied by 20 copies of the preliminary plat. The appropriate fee shall be paid upon filing the application.
2. **Preliminary Plat Contents:** The following information shall be shown on the preliminary plat or attached thereto:
  - a. **Items Pertaining to the Title:**
    - (1) The name of the proposed subdivision.
    - (2) Location of the subdivision by reference to a section corner.
    - (3) The name(s) and address(es) of the owner(s)/ developer(s) and the licensed land surveyor who prepared the plat.
    - (4) North arrow.
    - (5) Date prepared and scale of the drawing(s). The preliminary plat shall be drawn to a scale of not less than 1" = 200'; however, with special conditions and prior approval of the Zoning Administrator, this scale may be exceeded.
    - (6) The legal description of the entire dimensions of the subdivision.
  - b. **Items Pertaining to the Subject Property (Existing):**
    - (1) **All of the land to be platted as well as all platted or unplatted adjacent properties within 200 feet shall be shown. The boundary of the platted area shall be accurately indicated by a heavy solid line.**
    - (2) Existing contours with the contour intervals not more than 2 feet. All elevations and contours shall be related to USGS.
    - (3) The location, width and names of all existing platted or private streets or other public ways within or adjacent to the tract, together with easements, railroad and utility rights-of-way, parks and other significant features such as city boundary lines and monuments.
    - (4) Environmental features including the location and direction of drainage channels and areas subject to flooding by the recognized 100-year flood.
    - (5) All airports, sanitary landfills, feedlots or other similar uses located within two miles of the proposed plat shall be shown on a vicinity map.



- c. **Items Pertaining to the Plat (Proposed):**
- (1) **Layout and names of streets with general dimensions and appropriate grades and their relationship to adjoining or projected streets or roadways.**
    - (2) **Intended layout, numbers and dimensions of lots.**
  - (3) **Parcels of land intended to be dedicated or reserved for parks, schools, or other public use, or to be reserved for the use of property owners within the subdivision.**
  - (4) **Location and type of utilities to be installed, including the approximate location of extensions of any sanitary sewers, storm sewers and water mains.**
    - (5) **Utility and other easements indicating width and purpose.**
    - (6) **A statement or other indication of phasing of the development and an appropriate timetable if applicable.**
    - (7) **Vicinity sketch which indicates the relationship between the proposed subdivision and surrounding properties within 1,000 feet, showing streets and other features.**
3. **Application Complete:** Upon receipt of the preliminary plat and supporting data required in this Section, the Zoning Administrator shall certify the application as complete and affix the date of application acceptance on the plat or application form. The Zoning Administrator shall then place the preliminary plat on the agenda for consideration at the first available meeting of the Joint Planning Commission.
4. **General City Staff and Utility Review:** The Zoning Administrator shall distribute copies of the preliminary plat to the appropriate county or city departments and agencies and the affected utility companies for review and comment. All general staff and utility review comments shall be coordinated by the Zoning Administrator and shall be forwarded along with a report and recommendation to the Joint Planning Commission.
5. **Joint Planning Commission Review and Action:** The Joint Planning Commission shall review the preliminary plat for compliance with the provisions of these regulations. After reviewing the preliminary plat based on the objectives and requirements of these regulations, comments from concerned citizens, and the report from the Zoning Administrator, the Joint Planning Commission shall take action on the acceptance, modification or rejection of the preliminary plat. Approval of the preliminary plat by the Joint Planning Commission shall permit the applicant to proceed with the filing of a final plat as described in Section 2-104. The Zoning Administrator shall forward a statement of the action taken by the Joint Planning Commission to the appropriate Governing Body having jurisdiction. Said Governing Body having jurisdiction, at its request, may require that it must approve the preliminary plat before the applicant can submit a final plat.

6. **Effect of Approved Preliminary Plat:** Approval of the preliminary plat does not constitute final acceptance of the subdivision by Rush County or the cities of Bison, LaCrosse, Liebenthal, McCracken, Otis, Rush Center or Timken. It establishes the overall layout and design of the proposed subdivision and authorizes the applicant to prepare a final plat. Any deviation of the final plat from the intent of the approved preliminary plat as determined by the Joint Planning Commission shall be disallowed and shall cause the reinitiation of the preliminary platting process. The applicant shall file a final plat application along with the required documents described in Section 2-104 within three (3) years of the approval of the preliminary plat by the Joint Planning Commission and/or Governing Body having jurisdiction. Upon failure to do so within the time specified, approval of the preliminary plat is null and void, unless an extension of time, limited to six (6) months, is applied for by the developer and granted by the Joint Planning Commission. An extension shall be granted only once.

### **2-104 FINAL PLAT**

1. **Application:** The final platting process is intended to provide a complete surveyed drawing of the subdivision for the purpose of providing a legal record of lots, streets, areas for dedication and easements for future reference and transactions. The final plat submitted may be for all of the property approved in the preliminary plat or may be for only a portion or "phase" thereof. The applicant shall file 20 copies of the final plat with the Zoning Administrator along with the additional information required herein.

Said final plat shall be prepared by a registered land surveyor, and so sealed. In addition to the 20 copies, one (1) original final plat shall be submitted at least ten (10) days prior to the Joint Planning Commission meeting. Said original final plat shall be clearly and legibly drawn at a scale of 1" = 100' in permanent ink upon a 24" x 36" good quality mylar, and shall contain the information required herein.

2. **Final Plat Contents:** The following information shall be shown on the final plat and attached thereto:

a. **Items to be Included on the Final Plat:**

- (1) The lines and names of all proposed streets or other ways or easements, and other open spaces intended to be dedicated for public use or granted for use of inhabitants of the subdivision.
- (2) Lines and names of all adjoining streets within 200 feet.
- (3) The length of all straight lines, deflection angles, and radii, arcs and central angles of all curves, along the center line and the property lines of each street. All dimensions along the lines of each lot with the true bearings and angles of intersection which they make with each other, and also any other data necessary for the location of any lot line in the field. If more convenient, calculated bearings may be used instead of angles.
- (4) The location of all building setback lines is proposed different from the requirements of the Rush County Zoning Regulations.

- (5) Suitable primary control points, approved by the appropriate County or City Engineer, or descriptions and "ties" to such control points, to which all dimensions, angles, bearings, and similar data given on the plat shall be referred. All dimensions shall be shown in feet and decimals of a foot.
  - (6) Location and elevation of a permanent bench mark.
  - (7) The location of all permanent monuments with the distance between them, and sufficient curve data plainly marked. These monuments shall be located at all block corners.
  - (8) Date of preparation, title, north point, and scale shall be included. The title shall include the name of the subdivision under which it is to be recorded. The north point may indicate either the magnetic or true north and shall be so designated on the plat.
  - (9) The boundary of the subdivided tract with courses and distances marked thereon which shall be determined by survey in the field, which shall be balanced and closed, made by a qualified engineer or surveyor. The error of closure for a perimeter distance having a length of 10,000 feet or more shall not be more than one (1) in 20,000. For perimeter distances less than 10,000 feet in length, the error of closure shall not be more than one (1) in 10,000.
  - (10) An identification system for all lots and blocks.
- (11) The certification of the land surveyor making the plat, his seal and signature.**
- (12) The certificate of the County Surveyor.**
  - (13) The acknowledgement of a notary.**
- (14) A certification of the Joint Planning Commission showing its approval to the plat.
  - (15) The approval of the Governing Body having jurisdiction.
  - (16) The certificate of the Register of Deeds.
  - (17) Title insurance certification or a certificate of title prepared by a competent attorney showing that the proposed subdivider owns all the property within the plat in fee, and that it is free from encumbrances and liens; but if encumbered, the mortgagee shall be required to consent to the plat.
  - (18) Statement by the owner dedicating streets, rights-of-way, and any sites for public use.

- (19) Such other certificates, affidavits, endorsements, or dedications as may be required by the Joint Planning Commission in the enforcement of these regulations.
- (20) Purpose for which sites, other than residential lots, are dedicated or reserved.
- (21) Marginal lines encircling the sheet. All lettering, signatures and seals shall be within this margin.

**(22) Legal description of the subdivision.**

**b. Items Pertaining to the Final Plat:**

- (1) A certificate which states that the person or persons whose names are signed to this document and/or appear on the final plat are the sole and lawful owners of the property, that the plat is made with their desires, and that they dedicate the areas shown on the plat or as set forth in the document to the perpetual use and ownership by the public for the specific purpose stated therein or thereon. Ownership shall be verified by the Rush County Clerk.
- (2) Certification by the Rush County Clerk showing that all due or unpaid taxes have been paid in full.
- (3) A copy of any restrictive covenants applicable to the subdivision, if any; provided, the developer or subsequent homeowners association shall be responsible for the enforcement of any and all restrictive covenants filed for any subdivision and no provisions of said restrictive covenants shall supersede any restrictions or regulations established by these or any other local or state rules, regulations or laws.
- (4) Three (3) copies of a properly executed written agreement by the developer to undertake and complete, to the satisfaction of the County or the appropriate City, all public improvements required as a condition for approval of the plat. The agreement shall also set out the time limit for the completion of the specified work, the amount of bond or other acceptable surety to be posted as security for satisfactory completion of the work, and the right of the County or the appropriate City, in the event the required work is not completed in a proper or timely manner, to perform or complete the work and recover the actual cost thereof from the developer or the developer's sureties. The developer's agreement for public improvements will set out the public improvements required and also set out or incorporate by appropriate references, the plans and specifications for said improvements. The developer's agreement and bond for required public improvements shall be reviewed and approved as to the form and content by the County or City Engineer and the County Attorney or appropriate City Attorney. The Governing Body having jurisdiction may defer the submission of the written agreement until after the final plat has been approved.

3. **Application Complete:** Upon receipt of the final plat, engineering drawings and certification documents required in this Section, the Zoning Administrator shall certify the final plat application as complete. He shall then place the final plat on the agenda for consideration at the next regular meeting of the Joint Planning Commission which is held no less than 10 days after said application or no more than 45 days thereafter.
4. **General City Staff and Utility Review:** The Zoning Administrator shall transmit copies of the final plat, along with the other documents submitted, to the appropriate county or city departments and agencies, and utility companies as the Administrator deems necessary for review and to assure compliance with the approved preliminary plat. The Zoning Administrator shall serve as final plat coordinator and all review comments shall be directed to such person and forwarded to the Joint Planning Commission along with a report and recommendation.
5. **Joint Planning Commission Review and Action:** The Joint Planning Commission shall review the final plat for compliance with the approved preliminary plat and for completion of all final platting requirements. After consideration, the Joint Planning Commission shall either recommend to the appropriate Governing Body to approve or deny the final plat or table for additional information. The Zoning Administrator shall forward a statement of the action taken by the Joint Planning Commission together with the minutes and the original and 8 copies of the final plat to the appropriate Governing Body.
6. **Governing Body Review and Action:** Upon recommendation from the Joint Planning Commission, the Governing Body having jurisdiction shall take action to approve or disapprove the final plat including the acceptance of street and other public way dedications, service and utility easements, and land dedicated for other public use.
7. **Recording of Final Plat:** The final plat shall be recorded and filed with the Register of Deeds of Rush County, Kansas, after approval of the final plat by the Governing Body having jurisdiction as required by State law.

#### **2-105 SHORT-FORM PLAT**

1. **Application:** A short-form plat procedure is included within these regulations for the purpose and intent of providing a means of approving a subdivision of land that contains four lots or less and, in all other respects, meets the requirements of these regulations. The submission and approval of a preliminary plat is not required as a prerequisite for a short-form plat approval. If the proposed subdivision qualifies for a short-form plat, the applicant shall file 20 copies of the plat with the Zoning Administrator along with the additional information required herein.
2. **Short-Form Plat Contents:** A short-form plat must be drawn with permanent ink on good quality mylar and must be drawn to a scale of not less than 1" = 100'. Except for the above requirement, a short-form plat must meet all of the requirements necessary for the approval of a final plat as stated herein, including but not limited to all bonding requirements.
3. **Short-Form Plat Review and Action:** The review and approval procedures for a short-form plat are the same as specified herein for a final plat.

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**SECTIONS:****3-101 OBJECTIVE****3-102 AUTHORIZATION FOR APPROVAL OF LOT SPLITS****3-103 APPLICATION PROCEDURE****3-104 APPROVAL GUIDELINES****3-105 INDUSTRIAL LOT SPLITS****3-106 AGRICULTURAL LOT SPLITS****3-101 OBJECTIVE**

The objective of this Article is to create a procedure for the division of existing platted lots into not more than two (2) lots without having to comply with the formal platting requirements described in Article 2 of these regulations. Such lot split shall be subject to the guidelines established in Section 3-104 and any further divisions of the lot or lots so established shall be platted in compliance with the requirements of Article 2 of these regulations.

**3-102 AUTHORIZATION FOR APPROVAL OF LOT SPLITS**

The Zoning Administrator is hereby authorized to approve or disapprove a lot split in accordance with the provisions of this Article. Appeals from a decision made by the Zoning Administrator may be made to the Governing Body for a final determination.

**3-103 APPLICATION PROCEDURE**

The application for a lot split shall be made by the owner of the land to the Zoning Administrator on forms provided and shall be accompanied by the following information:

1. Three (3) copies of a drawing to a scale of not less than 1" = 100' showing the lot(s) involved, the precise location of any structures thereon, and the location and dimensions of the original and proposed lots. Said drawing shall be a certificate of survey from a licensed land surveyor to determine the exact location of the structures and the precise dimensions of the lots.
2. The legal description(s) for the proposed lot(s).
3. The location of existing parking and curb cuts, if any. In the case of a non-residential lot split, required off-street parking shall be shown.
4. The amount of square footage contained in each portion of the original lot.
5. All existing easements and, if any, access control. If the easements or access control were granted by separate instrument, the recording information shall be indicated.
6. All platted building setbacks.
7. The location of existing municipal water mains, water meters, sanitary sewer laterals, gas mains, gas meters, and storm sewer lines which serve the property subject to the lot split.

8. The location of electric, telephone and other utility services to the property subject to the lot split.

### **3-104 APPROVAL GUIDELINES**

No tract or lot split shall be approved if one or more of the following applies:

1. A new street or extension of an existing street, or a vacation of streets, alleys, setback lines, access controls or easements is required or proposed.
2. There is less street right-of-way than required by these regulations, unless dedication of additional right-of-way can be made by separate instrument.
3. Any easement requirements have not been satisfied.
4. Such split will result in a landlocked tract.
5. Such split will result in a lot(s) without direct access to and/or less than 50 feet of frontage on a street.
6. A substandard sized tract or lot will be created according to these regulations or the Rush County Zoning Regulations.

For those lot splits which result in significant increases in service requirements, e.g., utilities, traffic control, streets, etc.; or which interfere with maintaining existing service levels, e.g., additional curb cuts or points of access, repaving, etc.; or which propose private easements for access and/or utilities; review of the lot split by the Rush County Joint Planning Commission may be required. Such determination shall be made by the Zoning Administrator. If such a review is necessary, sufficient additional copies of the proposed lot split, and all supporting documentation, shall be provided by the applicant for distribution to the Rush County Joint Planning Commission.

The Zoning Administrator shall, in writing, either approve, with or without conditions, or disapprove the lot split within fifteen (15) working days of the application.

The Zoning Administrator may make such additional requirements as deemed necessary to carry out the intent and purpose of these regulations. Such requirements may include, but not be limited to, installation of public facilities, dedication of right-of-way and/or easements, or submission of covenants for the protection of other landowners in the original subdivision.

### **3-105 INDUSTRIAL LOT SPLITS**

The unlimited division of a platted lot used for industrial purposes only shall be permitted; provided, the resulting lots are used for industrial purposes in accordance with the Rush County Zoning Regulations.



**3-106 AGRICULTURAL LOT SPLITS**

The creation of one (1) additional lot in the unincorporated portion of Rush County on properties zoned and used as agricultural shall be permitted without requiring either a rezoning or a plat, including those divisions of agricultural lands because of mortgage or lending requirements; provided:

1. The provisions of section 3-103 are complied with completely.
2. The approval guidelines specified in section 3-104 are complied with to the extent they are applicable to an agricultural lot split.
3. A recordable covenant for the entire original tract, executed by the owner and/or owners, restricting further division of the original tract without full platting of the original tract, including the original split, into lots no larger than the size of the original split. The covenant shall include the requirements that rezoning and platting shall be in conformance with the then applicable Zoning and Subdivision Regulations of Rush County, Kansas. Said covenant shall be recorded with the Register of Deeds of Rush County prior to the approval of the initial agricultural lot split.

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**SECTIONS:****4-101 APPLICABILITY****4-102 STREET STANDARDS****4-103 ALLEYS****4-104 BLOCK STANDARDS****4-105 LOTS****4-106 EASEMENTS****4-107 DRAINAGE****4-108 WATER AND SEWER FACILITIES****4-109 LARGE LOT SUBDIVISIONS****4-110 PUBLIC SITES AND OPEN SPACES****4-111 BENCH MARKS, CORNER MONUMENTS, AND OTHER MARKERS****4-112 COMMUNITY ASSESTS****4-101 APPLICABILITY**

All subdivisions of land subject to these regulations shall conform to the following minimum design standards. Such design criteria shall govern the approval of subdivision plats by the Joint Planning Commission and the Governing Body having jurisdiction. All plats shall be prepared under the direct supervision of a registered engineer or land surveyor of the State of Kansas, and all submittals shall bear the seal of said registered engineer or land surveyor.

All subdivisions shall be platted with due consideration toward sound traffic engineering principles, safe and accessible building sites, adequate methods of storm water drainage and provisions for a sanitary water supply and effective sewage disposal system. All subdivision plats shall be consistent with applicable County or City development plans and policies and shall be coordinated with existing, planned or committed public improvements. All subdivision plats shall comply with all local, state and federal laws and regulations.

**4-102 STREET STANDARDS**

1. **Comprehensive Plan Compliance:** The arrangement, character, extent, and location of all streets shall conform to the Comprehensive Plan or other plans and standards as adopted.
2. **External Street Considerations:** The arrangement, alignment, and width of streets in new subdivisions shall be properly integrated with the existing principal street or road system and where appropriate shall provide for the continuation of existing principal streets in adjoining subdivisions or their projection where adjoining property is not platted. In no case shall the width of streets in new subdivisions be less than the minimum street widths established in this Article.
3. **Internal Street Layout, General:** The location, arrangement, character and type of all streets shall be designed in relation to topographical conditions, the extent and impact of storm water runoff, the safe and convenient circulation of traffic within the subdivision, and the uses of the land to be served by such streets. When possible, local streets shall be planned so as to discourage through traffic and to conveniently channel traffic onto collector and arterial streets.

4. **Internal Street Layout, Residential Development:** The use of curvilinear streets, cul-de-sacs, u-shaped streets, or cluster developments shall be encouraged in residential areas when appropriate. However, the excessive use of cul-de-sacs shall be discouraged. No streets shall be laid out so as to intersect with themselves, unless topographic conditions warrant.
5. **Internal Street Layout, Non-Residential Development:** In commercial or industrial developments, the streets and other accessways shall be planned in connection with the grouping of buildings, location of rail facilities, the provision of alleys, truck loading and maneuvering areas, walks, and parking areas to as to minimize conflict of movement between the various types of traffic, including pedestrian.
6. **Street Intersections:** Streets shall be designed to intersect as nearly as possible at right angles, except where topography or other natural conditions justify a variation. However, in no instances shall two streets intersect at an interior angle of less than 75 degrees without written consent of the County or City Engineer having jurisdiction.
7. **Multiple Intersections:** Intersections involving the junction of more than two (2) streets shall be avoided whenever possible.
8. **Intersection Curvature:** When connecting streets deflect from each other with an interior angle of less than 75 degrees they shall be connected by a curve with a radius adequate to ensure a sight distance of not less than two hundred (200) feet for local and collector streets, and of such greater radii as the County or City Engineer having jurisdiction shall determine for arterial streets.
9. **Curb Radii and Vision Triangle:** Street pavement at intersections shall be rounded by the following minimum radii:

<u>Street Classification</u>	<u>Intersection With</u>	<u>Minimum Curb Radii</u>
Arterial or Collector	Arterial or Collector	25 feet
Local	Arterial	25 feet
Local	Collector or Local	20 feet

The Joint Planning Commission may set specifications for curb radii, upon advice of the County or City Engineer having jurisdiction, greater than the minimum standards herein.

10. **Offset Streets:** Offset streets whose centerlines are separated by less than 150 feet shall be avoided, except where topography or other conditions justify a variation.
11. **Reserve Strips:** There shall be no reserve strips controlling access to streets. The subdividing of land shall be such as to provide each lot, by means of either a public street or way or permanent easement, with satisfactory access to an existing public highway or street.
12. **Private Streets:** There shall be no private streets platted in any subdivision.

13. **Travel Easements:** The Joint Planning Commission may recommend a Travel Easement to be substituted for a public street where it is deemed necessary or advantageous. Such easement shall include covenants, running in favor of the County or appropriate City related to future construction and maintenance, and shall be designed to the proper standards as set out in these regulations, unless otherwise allowed by the Joint Planning Commission. Travel easements are to be for the shared access (driveway) by not more than two (2) lots.
14. **Half Streets:** Half streets shall be prohibited, except where essential to the reasonable development of the subdivision in conformity with the other requirements of these regulations and where the Joint Planning Commission finds it will be practicable to require the dedication of the other half when the adjoining property is subdivided. Whenever a half street is adjacent to a tract to be subdivided, the other half of the street shall be platted within such tract.
15. **Visibility:** Clear visibility, measured along the centerline of a street, shall be provided for at least two hundred (200) feet on all streets.
16. **Access to Arterials:**
- a. Where a proposed commercial or industrial subdivision borders on or contains an existing or proposed limited access arterial, the Joint Planning Commission may require a street system design which affords separation of through and local traffic. This may be accomplished through reverse frontage lots with access control provisions along the rear property line, deep lots with rear service areas, or frontage roads.
  - b. Where a residential subdivision borders on or contains an existing or proposed arterial street, the Joint Planning Commission may require that access to such streets be limited by any of the following means:
    - (1) The subdivision of lots so as to back onto the arterial street and front onto a parallel local street. No access shall be provided directly to any lot from the arterial street, and screening shall be provided by the developer in a screening easement along the rear property lines of such lots.
    - (2) A series of cul-de-sacs, u-shaped streets, or short loops entered from and designed generally at right angles to such a parallel street, with the street lines of their terminal lots backing onto the arterial street. No direct access to the arterial street shall be allowed.
    - (3) A frontage road, separated from the arterial street by a ten (10) foot wide planting or grass strip, and having access at suitable points.
17. **Railroad Right-of-way:** Where a subdivision borders on or contains a railroad right-of-way, the Joint Planning Commission may require a street approximately parallel to and on each side of such right-of-way at a distance suitable for the appropriate use of the intervening land, such as for park purposes in residential districts or for commercial and industrial purposes in appropriate districts. Such distances shall also be determined with due regard for the requirements of approach grades and future grade separations.

18. **Dead-End Streets and Cul-De-Sacs:** Permanent dead-end streets shall be cul-de-sacs. A cul-de-sac within a city shall be no longer than 600 feet in length, measured along the centerline of the cul-de-sac from the centerline of the intersecting street to the radius point, and shall have an adequate turnaround with a minimum 60 foot radius right-of-way at the closed end. A cul-de-sac within the County shall be no longer than 1,320 feet in length, measured along the centerline of the cul-de-sac from the centerline of the intersecting street to the radius point, and shall have an adequate turnaround with a minimum 75 foot radius right-of-way at the closed end. Temporary dead-end streets longer than 100 feet intended to be continued for access to adjoining property shall have a temporary turnaround area to provide service equal to the cul-de-sac requirement stated above.
19. **Right-Of-Way and Street Widths:** In order to provide for streets of suitable location, width and improvements to accommodate future traffic and affords satisfactory access to emergency and service vehicles, and to coordinate streets to as to develop a convenient system that avoids undue hardships to adjoining properties, the following design standards are hereby required. Street classifications may be indicated on the Comprehensive Plan or other plans or standards as adopted, or shall be as determined by the Joint Planning Commission. The road standards for Rush County are on file with the County Engineer. The following road standards shall apply within the cities of Bison, LaCrosse, Liebenthal, McCracken, Otis, Rush Center and Timken, Kansas.

<u>IMPROVEMENT</u>	<u>RESIDENTIAL</u>	<u>NON-RESIDENTIAL</u>
<u>Minimum Right-of-Way (in feet)</u>		
Arterial	80	80
Collector	60	60
Local	50	60
Cul-de-sac	50	60

<u>IMPROVEMENT</u>	<u>RESIDENTIAL</u>		<u>NON-RESIDENTIAL</u>
	<u>(High)</u>	<u>(Low)</u>	
Arterial	40*	40*	60*
Collector	31*	31*	40*
Local	31*	24*	31*
Cul-de-sac	31*	24*	31*

\*With concrete 6" Vertical Curbs

20. **Parking and Sidewalk Requirements:** The following shall be required improvements accommodating on-street parking and sidewalks in the cities of Bison, LaCrosse, Liebenthal, McCracken, Otis, Rush Center and Timken:

On-Street Parking & Sidewalk Requirements

	<u>Parking</u>	<u>Sidewalks</u>
Arterial	None permitted	On both sides
Collector	Case-by-case	On both sides
Local	One side only*	On both sides
Cul-de-sac	One side only*	On both sides

\* Determined by appropriate City Engineer based on street pavement width.

21. **Street Widths:** In front of areas designated and zoned for a commercial or industrial use, or where a petition for a change in zoning is contemplated for a commercial or industrial use, to permit such use, the street width shall be increased by such amount on each side deemed necessary by the Joint Planning Commission to assure the free flow of through traffic without interference by parked or parking vehicles, and to provide safe parking space for such commercial or industrial districts.
22. **Centered Improvements:** The improved portion of streets shall be centered within the right-of-way, except in the cases where the Joint Planning Commission may allow.
23. **Vertical Curves:** Vertical curves are required for changes in grade greater than one percent (1%).
24. **Reverse Curves:** A tangent shall be provided between all reverse curves of a sufficient length, as related to the radius of the curves, so as to provide for a smooth flow of traffic.
25. **Road Grades:** No street grade shall be greater than seven percent (7%) nor less than five-tenths of one percent (0.5%).
26. **Street Names:** Streets which are substantially in alignment with existing streets shall, unless otherwise illogical or due to severe directional change, bear the names of the existing streets. The names of such new streets shall be approved by the Joint Planning Commission.
27. **Street Surfacing:** All streets and roads in the unincorporated portion of Rush County shall be constructed according to the standards and specifications of the County as established by and on file with the County Engineer. All streets in the cities of Bison, LaCrosse, Liebenthal, McCracken, Otis, Rush Center and Timken shall be constructed according to the standards and specifications of the City as established by and on file with the appropriate City Engineer.

**4-103 ALLEYS**

1. **Alleys Required, When:** Alleys shall be provided in commercial and industrial districts, except that the Joint Planning Commission may waive this requirement where other definite and assured provision is made for service access, such as off-street loading, unloading, and parking consistent with and adequate for the uses proposed. Alleys shall be required in residential areas.
2. **Width:** The minimum width of an alley shall be twenty (20) feet.

3. **Grade:** All alleys shall be graded to slope to the center line.
4. **Dead-End Alleys:** Dead-end alleys are prohibited.

#### **4-104 BLOCK STANDARDS**

1. **Lengths:** Blocks shall be delineated by intersecting streets at such intervals as to sufficiently provide for cross traffic and to furnish access to existing streets adjoining the new subdivision. In residential districts, no block shall be longer than 900 feet between centerlines of streets, except variations may be allowed in instances where topography or other conditions prohibit compliance.
2. **Design:** The configuration of blocks shall be determined with regard given to:
  - a. Zoning requirements as to lot sizes and dimensions.
  - b. Provision of adequate building sites suitable to the particular needs of the type of use intended.
  - c. Topography as it affects storm water drainage and erosion.
  - d. Need for convenient circulation, access, safety and control of vehicular and pedestrian traffic.
3. **Walkways:** Pedestrian walkways may be required where deemed necessary by the Joint Planning Commission to provide convenient access to schools, parks, playgrounds or other public or private community facilities. Pedestrian crosswalks, not less than (10) feet in width, shall be required where deemed essential by the Joint Planning Commission to provide circulation or access to schools, parks, playgrounds, shopping centers, transportation and other facilities.
4. **Pedestrian Easements:** Within the cities of Bison, LaCrosse, Liebenthal, McCracken, Otis, Rush Center and Timken, pedestrian easements not less than ten (10) feet in width shall be dedicated to the public through blocks where deemed essential by the Joint Planning Commission to provide pedestrian access to schools or other community facilities. These easements shall be provided with walkways and said walkways shall be constructed in a manner approved by the appropriate City Engineer.

#### **4-105 LOTS**

1. **Frontage Requirements:** Every lot shall have frontage on a street at least equal to the requirements of the zoning district in which it is located; except those lots fronting on the end of a cul-de-sac, which shall meet the frontage requirements as measured on a radius at the front yard setback line, and except those lots served by an approved travel easement.
2. **Size:** The size, width, depth, shape and orientation of lots and any minimum building setback lines shall be appropriate to provide safe and adequate building sites based upon the location of the subdivision and for the type of development and use intended. At a minimum, lots shall



have dimensions and sizes and provide for space requirements no less than as required by the Rush County Zoning Regulations.

3. **Side Lot Lines:** All side lot lines shall be at right angles to straight street lines and radial to curved street lines where practicable.
4. **Commercial/Industrial Lots:** Lots reserved or laid out for commercial and/or industrial purposes shall be of adequate size to provide for the off-street service and parking facilities required by the type of use, zoning district and development contemplated.
5. **Double Frontage:** Double frontage lots shall be avoided for single-family residential dwellings except where the lots abut upon a limited access highway or arterial street, or where the topography of the land prevents reasonable subdivision into additional lots. Double frontage lots shall not have vehicular access between such lots and an abutting limited access highway or arterial street.
6. **Major Streets:** When possible, lots intended for residential use facing on major streets shall be avoided. It is preferable that the sides or backs of such lots adjoin major streets with the vehicular egress from such lots being oriented to a minor street.
7. **Corner Lots:** Corner lots intended for residential use shall have additional width to allow appropriate building setback and orientation to both streets and to provide adequate corner visibility.
8. **Addressing of Lots:** House numbers shall be assigned to each lot by the Zoning Administrator and shall be displayed and legible in accordance with City standards.

#### **4-106 EASEMENTS**

1. **Utility:** Permanent easements shall be provided where necessary for the location and servicing of utility poles, wires, conduits, storm and sanitary sewers, water and gas mains and other public utilities. Utility easements located along rear lot lines shall measure at least 20 feet wide and be centered on such rear lot line. Utility easements located along side lot lines shall measure at least 15 feet wide and shall be centered on such side lot lines; provided, whenever utility easements are located around the perimeter of the area to be subdivided, they shall be contained wholly within such area. Utility easements located along front lot lines shall measure at least 10 feet wide. No utilities shall be buried within the driving surface of the street.
2. **Drainage:** A drainage easement may be required for a proposed subdivision which is traversed by a watercourse, drainage way or drainage channel. Such easement shall conform substantially to the lines of such watercourse and shall be of such width as may be necessary to provide adequate surface or underground storm water drainage and access for maintenance.
3. **Travel Easements:** Travel easements may be allowed in accordance with the provisions of this Article.
4. **Pedestrian Easements:** Pedestrian easements may be required in accordance with the provisions of this Article.

5. **Aviation Easements and Other Restrictions:** Land located within the vicinity of established flight paths and noise impact areas of public-owned or controlled airports, as determined by the Joint Planning Commission, shall be required to grant a permanent aviation easement to the public. All aviation easements shall allow aircraft to operate within the "navigable airspace" as defined by the Federal Aviation Act of 1958, as amended. Consistent with FAA Regulations, the Joint Planning Commission may disapprove a plat, or portion thereof, which could create a hazardous situation for air traffic and the general public resulting from development and construction of a project.

#### **4-107 DRAINAGE**

1. **Drainage Plans:** The developer shall include a drainage plan, as required by Section 2-103(2)(b)(4), and shall design storm water facilities according to the Storm Drainage Master Plan for the County or appropriate City. Drainage plans shall include, but are not limited to:
  - a. A complete drainage-area map showing the natural drainage area boundaries, direction of surface flow, any large impervious areas, existing and proposed streets, man-made or natural obstructions to be avoided for storm drainage locations, runoff calculations for existing and for developed conditions, and proposed inlet locations.
  - b. A grading design so that drainage from each lot should flow directly to a channel or detention area without crossing more than four (4) adjacent lots or four hundred (400) feet, whichever is less.
2. **Detention Facilities:** The developer shall install detention facilities when determined necessary by the County or City Engineer in accordance with the Storm Drainage Master Plan for the County or appropriate City.
3. **Storm Sewers:** The dedicated street right-of-way and dedicated drainage easements may be utilized for storm sewer facilities.

#### **4-108 WATER AND SEWER FACILITIES**

1. **Water and Sewer:**
  - a. All subdivisions located either within the City limits of the cities of Bison, LaCrosse, Liebenthal, McCracken, Otis, Rush Center and Timken or in areas to be annexed by such City, shall have water and sanitary sewer systems designed to the standards of the appropriate City Engineering Department.
  - b. All subdivisions within the unincorporated portion of Rush County shall provide water service and on-site wastewater treatment service in accordance with the Rush County Sanitation Code and other applicable rules and regulations in effect.
2. **Fire Hydrants:** Within the cities of Bison, LaCrosse, Liebenthal, McCracken, Otis, Rush Center and Timken, fire hydrants shall be located on all City streets at least every four hundred (400) feet when the development is being or is proposed to be served by City water. The Joint

Planning Commission may require the location of hydrants closer than four hundred (400) feet based on the recommendation of the appropriate Fire Chief.

3. **Location:** Water and sanitary sewer systems may be located within the dedicated non-pavement street right-of-way.

#### **4-109 LARGE LOT SUBDIVISIONS**

When a proposed subdivision is located within three miles of an incorporated city and involves lots of one (1) acre or more in area, consideration shall be given to the design and layout of the subdivision to any re-subdividing that might take place in the future, with proper provision being made for such street extensions and utility improvements as may be necessary.

#### **4-110 PUBLIC SITES AND OPEN SPACES**

Where deemed necessary by the Joint Planning Commission, upon consideration of the particular type of development proposed in the subdivision, the Joint Planning Commission may require the dedication or reservation of such other areas or sites of a character, extent, and location suitable to the needs created by such development for schools, parks, and other public or open spaces. The requirement of the dedication of such public sites and open spaces by the Joint Planning Commission shall not constitute an acceptance of the dedication by the City.

#### **4-111 BENCH MARKS, CORNER MONUMENTS, AND OTHER MARKERS**

1. **Bench Marks:**
  - a. All elevations shown on plats shall be based on USGS.
  - b. The permanent bench mark location and description that is used to extend datum to the project shall be noted on the Preliminary Plat and Final Plat.
2. **Monuments:** Monuments shall be installed in the subdivision in accordance with the minimum standards established by the Kansas Society of Land Surveyors as adopted by Kansas statutes.
3. **U.S. Government Corners:** Whenever a survey originates from a United States public land survey corner or any related accessory, the land surveyor shall file a copy of the completed survey and references to the corner or accessory with the Department of Archives, Kansas State Historical Society and with the County Surveyor. Such survey shall be filed within thirty (30) days of the date the references are made.
  - a. Any altered, removed, damaged or destroyed corner shall be restored.
  - b. Whenever such a corner or any related accessory is restored, re-established or replaced due to construction activities, a restoration report shall be filed with the Department of Archives, Kansas State Historical Society as specified in K.S.A. 21-3724, as amended.

4. **Existing Markers:** At any time during construction of the subdivision, if a stone marker should be found, the developer shall establish and report appropriate reference ties to the stone to facilitate the location of the stone in the future.

**4-112 COMMUNITY ASSESTS**

In all subdivisions, due regard shall be given to the preservation of any historical sites, drainage courses, areas of particular aesthetic value, or large and/or valuable trees.

**SECTIONS:****5-101 APPLICABILITY****5-102 REQUIRED IMPROVEMENTS****5-103 FINANCING****5-104 RELATION TO PLAT APPROVAL****5-105 RELOCATION OF EXISTING FACILITIES****5-106 ACCEPTANCE****5-107 BUILDING PERMITS****5-108 OFF-SITE IMPROVEMENTS****5-101 APPLICABILITY**

Prior to and as a condition of approval of any final plat by the Governing Body having jurisdiction, the developer shall agree to install or provide for the installation of certain improvements within the proposed subdivision. Such improvements installed by the developer shall comply with the standards and specifications of the County or appropriate City, utility company or public agency having jurisdiction and shall be subject to any applicable surety requirements to guarantee their proper installation.

**5-102 REQUIRED IMPROVEMENTS**

Every developer shall install, or through the appropriate public agency and/or utility company provide for the installation of the following improvements in accordance with the conditions and specifications required herein.

**1. Water Supply and Sewage Disposal:****a. Water Supply:**

- (1) For projects within the corporate limits of the cities of Bison, LaCrosse, Liebenthal, McCracken, Otis, Rush Center and Timken, the developer shall contract with the appropriate City Water Department to make the water supply available for each lot within the subdivided area. For projects outside the corporate limits of said cities, it shall be the responsibility of the developer to either arrange for extension of water service from the appropriate city in accordance with City policies relative to the same, or provide sufficient proof of available water supply for all of the lots proposed to be created.
- (2) In instances where water service is provided by the cities of Bison, LaCrosse, Liebenthal, McCracken, Otis, Rush Center and Timken, the developer shall contract with said city for the installation, maintenance, and operation of fire hydrants in accordance with said City's requirements.
- (3) All water supply plans and profiles shall be subject to the approval of the Kansas Department of Health and Environment.

- b. **Sanitary Sewer System:**
- (1) All subdivisions within the corporate limits of the cities of Bison, LaCrosse, Liebenthal, McCracken, Otis, Rush Center and Timken shall connect to the sanitary sewer system of said city. All connections shall be subject to the approval of said city.
  - (2) Where the installation of sanitary sewers is not practicable or is not required in the unincorporated portion of Rush County, the developer may provide for the installation of private individual sewage treatment systems on each individual lot at the time improvements are erected thereon. All such individual sewage treatment systems shall be constructed and maintained in accordance with the Rush County Sanitary Code.
  - (2) All sanitary sewer plans and profiles shall be subject to the approval of the Kansas Department of Health and Environment.
2. **Provision for Storm Drainage:** The developer shall make adequate provision for the control and discharge of storm water from the platted area and in doing so shall give consideration to the alternatives and principles of storm water management. When necessary, the construction of storm sewers shall be properly integrated with any existing storm sewer system and shall provide for the anticipated extension of said system to serve additional areas. The storm drainage plan and subsequent installation of culverts, storm sewers, stabilization ditches, storm water detention or retention ponds and other improvements shall follow accepted engineering standards and principles of design and construction. All storm drainage plans shall be prepared by a registered engineer of the State of Kansas and shall bear the seal of said registered engineer and must receive approval of the County or City Engineer as appropriate.
3. **Provisions for Streets:** The developer shall provide for the improvement of all new streets within the platted area. Such street improvements should adequately reflect the classification of the particular street, its location and anticipated volume of traffic. All grades, drainage facilities and surfacing requirements shall be constructed according to the standards and specifications of the County or City. Said construction standards are on file and available in the office of the County or City Engineer. All street plans, profiles and specifications shall be submitted to and approved by the County or City Engineer. Final acceptance of the construction of said streets shall be made by the County or City Engineer having jurisdiction.
4. **Inspections:** All construction and installation shall be inspected by the County or City Engineer having jurisdiction. The developer shall pay for inspection personnel furnished by the County or City, under the supervision of the County or City Engineer, on all improvements constructed by the developer as contractor or subcontractor. A schedule of fees shall be prepared by the County and City Engineer.
5. **Installation of Utility Lines & Appurtenances:** The developer shall be responsible for making the necessary arrangements with the appropriate utility companies for the installation of utility lines and appurtenances. The installation of such utilities shall be done in such a manner as to not interfere with other underground utilities and their installation shall be coordinated through the County or City Engineer. Underground utility lines which cross underneath the

right-of-way of a street shall be installed prior to the improvement of any such street in order to reduce the damage caused by street cuts. Incidental appurtenances, such as transformer enclosures and meter cabinets, shall be located so as not to be hazardous to the public and shall be approved by the County or City Engineer.

6. **Installation of Monuments:** The developer shall install monuments within the area to be subdivided. Such monuments shall be installed in accordance with the minimum standards established by the Kansas Society of Land Surveyors as adopted by Kansas statutes.
7. **Exceptions:** All improvement requirements as set out within this Article shall be provided for in all subdivisions with the following exceptions:
  - a. Upon specific request from the developer and concurrence of the Governing Body having jurisdiction, certain improvements may be waived. Such waiver may include, but not be limited to, instances where the proposed subdivision is a resubdivision and/or concerns an area presently having any or all the required improvements as set out in Section 5-102 and where such improvements comply with the requirements of said Section and are in acceptable condition as determined by the County or City Engineer.
  - b. The Governing Body having jurisdiction may make other reasonable requirements for dedications or installations of public improvements or facilities deemed necessary to meet the public needs caused by the new subdivision. Such additional requirements may include, but not be limited to, the provision of park or open space land as is warranted by the reasonably foreseeable future population and use of the area as a result of the proposed subdivision.

### **5-103 FINANCING**

1. **Subdivision Improvements:** A method for financing proposed improvements and a breakdown of anticipated costs shall be submitted with the Final Plat. This shall be accomplished by filing a Subdivision Improvements Agreement or a Benefit District Petition, and shall be required for all subdivisions of land except for Lot Splits which require no improvements. Benefit District financing is available for all improvements within a subdivision within the cities of Bison, LaCrosse, Liebenthal, McCracken, Otis, Rush Center and Timken, but not available for construction of roads and drainage improvements for a subdivision in the unincorporated portion of Rush County. The Governing Body having jurisdiction shall have sole responsibility to accept or reject the Subdivision Improvement Agreement or Benefit District Petition. Financing methods may include, but are not limited to, the following guarantees:
  - a. **Petition for Establishment of a Benefit District:** The percentage split of costs shall be based on the policy established by the Governing Body having jurisdiction. The County or City may decide not to participate in Benefit Districts that do not comply with the Capital Improvements Program or those which are inconsistent with the Comprehensive Plan.

- b. **Surety Bonds:** The developer shall provide the County or City Engineer having jurisdiction with all calculations and information needed to check the cost estimates of said improvements. This cost shall be estimated by the developer and shall be verified by the County or City Engineer. The developer shall then be required to obtain a security bond from a surety bonding company authorized to do business in the State of Kansas. The bond shall be made payable to Rush County or the appropriate city, and shall be a minimum of thirty five percent (35%) percentage of the total improvement costs, unless a higher percentage is recommended by the County or City Engineer. Financial assurance in a form other than a bond may be accepted by the Governing Body having jurisdiction. The duration of the bond shall be until such time as the improvements are completed, inspected and accepted by the County or City.
- c. **Alternatives:** Other financing methods may include cash or collateral, Escrow Accounts, Property Escrow Accounts, or any other guarantee the Governing Body shall deem acceptable.
2. **Defaulting:** The Governing Body having jurisdiction may, upon advice of the County or appropriate City Engineer, find that the developer is in default of the Subdivision Improvements Agreement. Such finding shall occur at a regularly scheduled meeting of said Governing Body. Two (2) weeks prior to such scheduled meeting, the developer shall be notified by registered mail of possible default proceedings. At the meeting the developer shall be given the opportunity to rebut findings of default.
- Defaulting results from:
- a. Improper construction standards and specifications.
- b. Failure to install agreed upon improvements.
- c. Construction of improvements not according to agreed upon time schedule, allowing for unexpected or unavoidable delays.
- d. Other financial and/or contractual conditions which might lead to the developer being unable to complete the agreed upon improvements.
3. **Default Proceedings:** The Governing Body having jurisdiction may find the developer not in default, extend the time limit, or:
- a. Should the Governing Body having jurisdiction find the Subdivision Improvements Agreement to have been violated, it may liquidate the improvements guarantee, in whatever form it takes, and apply the proceeds of this guarantee to the construction of the improvements set out in the Subdivision Improvements Agreement.
- b. Should the proceeds of the guarantee not be sufficient to cover the costs of said improvements, the Governing Body having jurisdiction may assess to the developer, property owners, or both, the construction costs of the improvements that exceed the amount provided by the developer. This may take the form of a lien against the property covered in the Subdivision Improvements Agreement.



- c. Should the proceeds of the guarantee exceed the actual cost of the improvements, and any cost incurred in the default procedures, the City shall return the unexpended balance to the individual named on the Subdivision Improvements Agreement as the one having secured the guarantee.
4. **Guarantee Release:** When all improvements have been completed and have been inspected, approved and accepted, the County or appropriate City shall authorize the release of the guarantee.

#### **5-104 RELATION TO PLAT APPROVAL**

1. **Adequate Public Facilities:** Prior to approval of the Preliminary Plat, the Joint Planning Commission shall find that sufficient public facilities and services are either available, shall be available within a reasonable time as programmed in the Capital Improvements Program, or shall be provided by the developer in accordance with the requirements of these regulations to adequately service the type of subdivision and development being proposed.
2. **Subdivision Improvements:** When the construction or installation of street improvements, sidewalk improvements, public water supply, sanitary sewer systems, storm sewer systems or other drainage improvements, or other facilities is required to serve the proposed development within a subdivision, a prerequisite for the consideration of the Final Plat shall be the submission of a Benefit District Petition or a Subdivision Improvements Agreement specifically setting forth the extent, time schedule, and method of financing such construction or installation as proposed by the owner or developer. The Benefit District Petition or the Subdivision Improvements Agreement shall contain sufficient information to make a determination that the proposed construction or installation shall meet or exceed the standards set forth in the Subdivision Regulations herein. A phased construction time schedule may be recommended by the Joint Planning Commission, subject to approval by the Governing Body having jurisdiction, which is based on the owner's or developer's estimate of the pace at which development will proceed within the subdivision.
3. **Final Approval:** Any approval required under this section does not obligate the Joint Planning Commission to approve the proposed plat if the Joint Planning Commission finds the overall development to be inconsistent with any established policies and plans.

#### **5-105 RELOCATION OF EXISTING FACILITIES**

1. **Financial Obligations:** Whenever any existing improvements and/or utilities are required to be relocated or upgraded due to the subdivision or construction of improvements required as a condition for approval of the subdivision plat, and in the event such was not known at the time of initial construction, the costs of such relocation or upgrading shall be the sole responsibility of the new subdivision. Franchise agreements between the County or any city and private utilities in effect at the time of construction, may dictate the responsibility for absorbing costs associated with relocating or repairing utility lines. Responsibility may also depend on whether the relocation or repair is a private or public benefit.
2. **Duplication of Improvements:** Where the proposed subdivision is a resubdivision or concerns an area presently having any or all required improvements as set out above, and where

such improvements meet the requirements of these regulations and are in good condition as determined by the County or City Engineer having jurisdiction, no further provision need be made by the developer to duplicate such improvements. The developer shall provide for the repair, correction or replacement of improvements so that all improvements will then meet the said requirements.

3. **Street Widening or Reduction:** Where the proposed subdivision is a resubdivision or concerns an area presently abutting or containing any existing public street or less than the minimum required right-of-way width or roadway width, land shall be dedicated so as to provide a minimum street right-of-way width established by these regulations and/or County or appropriate City policy. The developer of such proposed subdivision shall provide an additional roadway pavement meeting the minimum standards set by these regulations and the County or appropriate City Engineer. The County or City Engineer having jurisdiction shall determine what adjustment to make where the widenings merge with existing streets which are of smaller width at the boundary of such proposed subdivision. The County or City Engineer having jurisdiction may approve reduction of the minimum roadway width, as required by these regulations, to match an existing roadway system where physical consideration warrants such action.

#### **5-106 ACCEPTANCE**

No improvements may be accepted until the County or City Engineer having jurisdiction has inspected said improvements and certified that they meet the applicable standards.

#### **5-107 BUILDING PERMITS**

No building permits may be granted until the proposed subdivision has been approved and recorded.

#### **5-108 OFF-SITE IMPROVEMENTS**

The Joint Planning Commission may, upon advice and findings, require the developer to submit a Subdivision Improvements Agreement or a Benefit District Petition, in accordance with the provisions of this Article, for the installation or upgrading of off-site improvements if such need is substantially created by a proposed subdivision. Off-site improvements should be within dedicated easements or rights-of-way and serve a public purpose. The financing of such improvements shall be handled as if they were on-site improvements. The Governing Body having jurisdiction may require such subdivision to participate in the following facilities and improvements, or any other off-site improvements as recommended by the Joint Planning Commission, if the need is created by a proposed subdivision:

1. Special grading requirements;
2. Street improvements;
3. Drainage improvements; or,
4. Traffic control devices.

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**SECTIONS:****6-101 RULE EXCEPTIONS****6-102 APPEALS****6-103 PENALTY FOR VIOLATIONS, ACTIONS****6-101 RULE EXCEPTIONS**

The standards and procedures required in these regulations shall be interpreted and applied literally in the case of all subdivision plats submitted after the date of the adoption of these regulations. In case, however, of hardship caused by size, location or configuration of land, topography or other factors which affect a specific tract or subdivision or portion thereof, the applicant may request a rule exception from one or more of the requirements contained herein. A rule exception may be requested, on forms provided, at the time of filing of the preliminary or final plat application. A rule exception may be approved by the Governing Body having jurisdiction, provided, that in its judgment, such action will not violate the public interest, unnecessarily burden the County or affected City, or will annul the intent and purpose of these regulations.

**6-102 APPEALS**

Any decision of the Rush County Joint Planning Commission or the Zoning Administrator on matters contained herein may be appealed to the Governing Body having jurisdiction and said Governing Body may reverse or affirm such decision.

**6-103 PENALTY FOR VIOLATIONS, ACTIONS**

The violation of any provision of these regulations shall be deemed a misdemeanor and any person, firm, association, partnership or corporation convicted thereof shall be punished by a fine not to exceed \$500.00 and that each day's violation shall constitute a separate offense. The Governing Body having jurisdiction shall further have the authority to maintain suits or actions in any court of competent jurisdiction for the purpose of enforcing any provisions of these regulations and to abate nuisances maintained in violation thereof; and in addition to other remedies, institute injunction, mandamus, or other appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance, or use, or to correct or abate such violation, or to prevent the occupancy of any building, structure or land.

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**SECTIONS:****7-101 VALIDITY****7-102 ACCRUED RIGHTS AND LIABILITIES SAVED****7-103 SEVERABILITY****7-104 EFFECTIVE DATE****7-105 REPEALING CLAUSE****7-101 VALIDITY**

If any section, paragraph, subdivision, clause, phrase, or provision of these regulations shall be adjudged invalid or held unconstitutional, the same shall not affect the validity of these regulations as a whole or any part or provision thereof, other than the part so declared to be invalid or unconstitutional. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

**7-102 ACCRUED RIGHTS AND LIABILITIES SAVED**

The repeal of ordinances provided in Section 7-105 herein, shall not affect any rights accrued, fines, penalties, forfeitures, or liabilities incurred thereunder, or actions involving any of the provisions of said ordinances or parts thereof. Said ordinances below repealed are hereby continued in force and effect, after the passage, approval and publication of these regulations, for the purpose of such rights, fines, penalties, forfeitures, liabilities and actions therefore.

**7-103 SEVERABILITY**

Each article, section, and subdivision of a section of these regulations is hereby declared to be independent of every other article, section, or subdivision of a section, so far as inducement for the passage of these regulations is concerned.

**7-104 EFFECTIVE DATE**

These regulations, being designated as the "Subdivision Regulations of Rush County, Kansas", shall be in full force and effect from and after its passage and publication in accordance with K.S.A. 12-3301 through 12-3305 for Rush County and K.S.A 12-3009 through 12-3012 for the cities of Bison, LaCrosse, Liebenthal, McCracken, Otis, Rush Center and Timken, Kansas.

**7-105 REPEALING CLAUSE**

These regulations repeal all previous Subdivision Regulations of Rush County and the cities of Bison, LaCrosse, Liebenthal, McCracken, Otis, Rush Center and Timken, Kansas, in their entirety.

# ***RUSH COUNTY, KANSAS***

## ***Zoning Regulations***

***Rush County Joint Planning Commission***

***Edition of June, 2001***

**Rush County Board of County Commissioners**

*Rodney Taylor, Chairman*  
*Terry Conard, Commissioner*  
*Lon Wells, Commissioner*



## **Rush County Joint Planning Commission**

*Jeff Vap, Chairman*  
*Ben Rogers, Commissioner*  
*Barry Urban, Commissioner*  
*Tom Raup, Commissioner*  
*Kenneth Romeiser, Commissioner*  
*Wayne Harbaugh, Commissioner*  
*John Zeller, Commissioner*  
*Dan Keener, Commissioner*  
*Theresa Peters, Commissioner*

## **Rush County Clerk**

*Barbara Matal*

## **Participating City Mayors**

*Robert D. Dalton, Mayor, City of Bison*  
*Terry Swisher, Mayor, City of LaCrosse*  
*Norman L. F. Matal, Mayor, City of Liebenthal*  
*John Zeller, Mayor, City of McCracken*  
*Tim Galusha, Mayor, City of Otis*  
*Jeff Keener, Mayor, City of Rush Center*  
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These regulations, including the mapping and/or zoning designation records made a part hereof, shall be known and may be cited as the "Zoning Regulations of Rush County, Kansas", and shall hereinafter be referred to as "these Regulations." As noted within the Article 1-103 herein, these Regulations shall also be applicable within the cities of Bison, LaCrosse, Liebenthal, McCracken, Otis, Rush Center and Timken. As such, these Regulations may also be cited as the "Zoning Regulations for Bison, LaCrosse, Liebenthal, McCracken, Otis, Rush Center or Timken."

**1-102 PURPOSE**

These Regulations are intended to serve the following purposes:

1. To promote the health, safety, morals, comfort and general welfare of the residents of Rush County, and the cities of Bison, LaCrosse, Liebenthal, McCracken, Otis, Rush Center and Timken, Kansas.
2. To create zoning districts sensitive to the needs of the residents of Rush County and the cities of Bison, LaCrosse, Liebenthal, McCracken, Otis, Rush Center and Timken, while protecting and enhancing the values of all the residents of Rush County, and encouraging as much non-agricultural development as possible to occur within the incorporated cities of the County.
3. To preserve, maintain, and conserve agricultural land within Rush County, Kansas.
4. To encourage and promote agricultural development and productivity, and to protect agricultural land from the intrusion of uses which are incompatible, inconsistent, or which otherwise detract from, limit, restrict, or diminish agricultural productivity within Rush County, Kansas.
5. To encourage and promote family farms.
6. To avoid the undue concentration of populations and to prevent overcrowding in the use of land and community facilities.
7. To provide adequate notice on proposed changes in the use of land from one land classification to another, and an opportunity for interested parties to be heard.



8. To facilitate the adequate provisions of transportation, water, sewage, schools, utilities, and other public improvements and services for the benefits of the residents of Rush County and the cities of Bison, LaCrosse, Liebenthal, McCracken, Otis, Rush Center and Timken, Kansas.
9. To inform the public regarding future development in Rush County and the cities of Bison, LaCrosse, Liebenthal, McCracken, Otis, Rush Center and Timken, Kansas, thereby providing a basis for wise decisions with respect to such development.

### **1-103 JURISDICTION**

These Regulations shall apply to all lands within the unincorporated portion of Rush County, Kansas, and to all lands within the cities of Bison, LaCrosse, Liebenthal, McCracken, Otis, Rush Center and Timken.

### **1-104 DEFINITIONS**

For the purpose of these Regulations, certain terms and words are hereby defined. Words used in the present tense shall include both the past and the future, and words used in the future tense shall include the present; words in the singular number shall include the plural and words in the plural number shall include the singular; the word "building" shall include the word "structure"; the word "dwelling" shall include the word "residence"; the word "lot" shall include the word "plot"; the word "person" shall include individuals, firms, corporations, associations, governmental bodies and agencies, and all other legal entities; the word "shall" is mandatory and not directory while the word "may" is permissive; and the phrase "used for" shall include the phrases "arranged for", "designed for", "intended for", "maintained for", and "occupied for". Words or terms not herein defined shall have their ordinary and customary meaning in relation to the context.

1. **ABANDONED VEHICLE:** Any inoperable motor vehicle to which the last registered owner of record thereof has relinquished all further dominion and control.
2. **ACCESS:** The right to cross between public and private property allowing pedestrians and vehicles to enter and leave property.
3. **ACCESSORY BUILDING:** A subordinate building or portion of the main building, located on the same lot, the use of which is clearly incidental to that of the main building or to the use of the land on which it is located. Customary accessory buildings include, but are not limited to, garages, carports, garden houses, small storage sheds and children's playhouses.
4. **ACCESSORY USE:** A subordinate use which serves an incidental function to that of the principal use of the premises. Customary accessory uses include, but are not limited to, tennis courts, swimming pools, air conditioners, barbecue grills, fireplaces, and satellite dish antennas.
5. **ADMINISTRATIVE OFFICER:** See Zoning Administrator.

6. **AGRICULTURAL PURPOSES, LAND USED FOR:** The use of a tract of land for the production of plants, animals and/or horticultural products, including but not limited to: forages; grains and feed crops; dairy animals and dairy products; cattle, sheep, poultry, swine and horses; bees and apiary products; trees and forest products; fruits, nuts and berries; vegetables; or nursery, floral, ornamental or greenhouse products. Land used for agricultural purposes shall not include the following:
- a. Lands which are used for recreational purposes even though such properties may produce or maintain some of the plants or animals listed herein.
  - b. Lands which are used for rural residential and suburban residential home sites and yard plots whose primary function is for residential purposes even though such properties may produce or maintain some of the plants or animals listed herein.
  - c. The operation or maintenance of greenhouses, nurseries or hydroponic farms operated at retail.
  - d. The operation of an auction sales yard.
  - e. The operation of a junkyard.
  - f. The operation or maintenance of a commercial stockyard, feedlot or other confined animal feeding operation.
  - g. The operation of a boarding or breeder kennel.
  - h. The keeping of exotic birds and/or animals.
  - i. The operation of a bed and breakfast.
  - j. The operation of an airport or landing strip.
  - k. Quarrying or mining activities, even though the reclamation of same may be for water impoundments that support agricultural activities.
7. **AIRCRAFT:** A weight-carrying structure for navigation of the air that is supported either by its own buoyancy or by the dynamic action of the air against its surfaces. Aircraft includes, but is not limited to, airplanes, helicopters, gliders, ultra-light airplanes, hot-air balloons, and the like.
8. **AIRPORT OR AIRCRAFT LANDING FIELD:** Any landing area, runway or other facility designed, used, or intended to be used either publicly or by any person or persons for the landing and taking off of aircraft, including all necessary taxiways, aircraft storage, and tiedown areas, hangars, and other necessary buildings and open spaces.

9. **ALLEY:** A public or private thoroughfare which provides only a secondary means of access to abutting property.
10. **ALTERATION:** A change or rearrangement in the structural parts of an existing building or structure. Enlargement, whether by extending a side, increasing the height, or the moving from one location or position to another, shall be considered as an alteration.
11. **AMENDMENT:** The process of change or alteration to the Zoning Regulations in one of the following forms:
  - a. A comprehensive revision or modification of the zoning text and/or maps.
  - b. A text change in the zone requirements.
  - c. A change in the maps, i.e., the zoning designation of a particular parcel or parcels. This form is also known as "rezoning."
  - d. The approval of a Conditional Use Permit as provided within these Regulations.
12. **APARTMENT HOUSE:** A building or buildings containing apartments used as a place of residence for five (5) or more families.
13. **APPLICANT:** The owner of a tract of land, or his duly designated representative, for which an amendment has been requested.
14. **AUCTION SALES YARD:** A tract of land and accompanying buildings and/or other structures, if any, arranged or designed to be used for the sale by auction of merchandise offered on consignment.
15. **BOARD OF ZONING APPEALS:** That board created herein which has the statutory authority to hear and determine appeals, exceptions and variances to these Regulations.
16. **BUFFER AREA:** Open and unobstructed ground area of a plot in addition to any required yards or road widenings around the perimeter of any plot.
17. **BUILDABLE WIDTH:** The width of that part of a lot not included within any required open space.
18. **BUILDING:** Any structure built for the support, shelter, or enclosure of persons, animals, chattels or movable property of any kind, and which is permanently affixed to the land, exclusive of fences.
19. **BUILDING HEIGHT:** The vertical distance from the established grade to the highest point on the roof or parapet wall.

20. **BUILDING LINE:** A line, usually fixed parallel to the lot line, beyond which a building cannot extend under the terms of these Regulations. The building line is equivalent to the setback or yard line.
21. **BUILDING, PRINCIPAL:** A building in which is conducted the main or principal use of the plot on which said building is situated. In any residential district, any dwelling shall be deemed to be a principal building on the plot on which it is located.
22. **CEMETERY:** Land used for burial and dedicated for cemetery purposes, including columbariums, crematories, mausoleums, and mortuaries when operated in conjunction with and within the boundaries of such cemetery.
23. **CHILD CARE CENTER:** A facility licensed by the State of Kansas to provide for the care of thirteen (13) or more children from two (2) weeks to sixteen (16) years of age, and which is maintained for less than twenty-four (24) hours per day.
24. **CHURCH:** An establishment, the principal purpose of which is religious worship, but which may include such accessory uses in the main structure or in separate buildings, as Sunday School rooms, private schools, child care, assembly rooms, kitchen, recreational facilities and/or library.
25. **CITY:** The governing body of the City of Bison, LaCrosse, Liebenthal, McCracken, Otis, Rush Center or Timken, Kansas, or the delegated staff, boards or agencies thereof. City also means the lands within the corporate limits of the City of Bison, LaCrosse, Liebenthal, McCracken, Otis, Rush Center or Timken, Kansas.
26. **CITY ENGINEER:** The City Engineer, or such person designated by the Governing Body to provide engineering assistance in administering the provisions of these Regulations governing areas of normal responsibilities assigned to the City Engineer.
27. **CLEAN RUBBLE:** Inert uncontaminated construction and demolition waste which includes concrete and concrete products, reinforcing steel, asphalt pavement, brick, soil or rock.
28. **CLINIC:** A building designed and used for the medical, dental or surgical diagnosis or treatment of patients under the care of doctors and/or nurses, with no overnight boarding.
29. **CLUB:** Buildings and facilities owned or operated by a corporation, association, person or persons for social, educational, or recreational purposes, but not primarily for profit which inures to any individual and not primarily to render a service which is customarily carried on as a business.
30. **CLUB, MEMBERSHIP:** Membership clubs, including private clubs, as defined by K.S.A. 41-2601 et seq and succeeding amendments, including but not limited to such clubs as the American Legion, VFW, and the Elks.

31. **CLUSTER HOUSING:** The site planning technique of grouping dwelling units around courts, parking areas, common open spaces and private drives as opposed to fronting all on a public street.
32. **COMMON OPEN SPACE:** An area of land, water or combination thereof, planned for active or passive recreation, but not including areas utilized for streets, alleys, driveways or private roads, off-street parking or loading areas, or required yards. The area of recreational activities such as swimming pools, tennis courts, shuffleboard courts, etc., may be included as common open space.
33. **COMPREHENSIVE PLAN:** The adopted Comprehensive Plan for Rush County or the City of Bison, LaCrosse, Liebenthal, McCracken, Otis, Rush Center or Timken, Kansas, and amendments thereto.
34. **CONDITIONAL USE:** A use of any building, structure or parcel of land that, by its nature, is perceived to require special care and attention in siting so as to assure compatibility with surrounding properties and uses. Conditional uses are allowed only after public notice, hearing, and approval as prescribed in these Regulations and may have special conditions and safeguards attached to assure that the public interest is served.
35. **CONDITIONAL USE PERMIT:** A written document of certification issued by the Zoning Administrator permitting the construction, alteration or establishment of a Conditional Use.
36. **CONDOMINIUM:** A building containing two (2) or more dwelling units which are designed and intended to be separately owned in fee under the Townhouse Ownership Act (K.S.A. 58-3710 et seq) of the State of Kansas.
37. **CONFINED ANIMAL FEEDING OPERATION:** Any lot, pen, pool and/or pond which is used for the confined feeding of animals or fowl for food, fur or pleasure which is not normally used for raising crops and in which no vegetation intended for animal food is growing. For purposes of these Regulations, a Confined Animal Feeding Operation shall be any operation defined herein that has the capacity of 1,000 animal units, with an animal unit being as defined by the State of Kansas at K.S.A. 65-171d, and amendments thereto.
38. **CONSTRUCTION/DEMOLITION LANDFILL:** A permitted solid waste disposal area used exclusively for the disposal on land of construction and/or demolition waste.
39. **CONSTRUCTION/DEMOLITION WASTE:** Waste building materials and rubble resulting from construction, remodeling, repair or demolition operations; but not clean rubble or asbestos.
40. **COUNTY:** The Board of County Commissioners of Rush County, Kansas, or its delegated staff, boards or agencies.

41. **COUNTY ATTORNEY:** The County Attorney, or such licensed attorney designated by the County Attorney, responsible for the prosecution of all violations of these Regulations in accordance with the provisions contained herein, and as established by law.
42. **COUNTY COUNSELOR:** The County Counselor, or such licensed attorney designated by the County Counselor or Governing Body, to furnish legal assistance for the administration of these Regulations.
43. **COUNTY ENGINEER:** The County Engineer, or such licensed engineer designated by the County Engineer or Governing Body, to provide engineering assistance in administering these and other Regulations governing areas of normal responsibilities assigned to the County Engineer.
44. **COUNTY HEALTH OFFICER:** The Director of the Rush County Health Department, or such person designated to administer the Health Regulations of Rush County.
45. **DAY CARE HOME:** A facility licensed by the State of Kansas to provide for the care of not more than ten (10) children under fourteen (14) years of ages, not more than six (6) of whom are under kindergarten age, between the hours of 6:00 a.m. and 9:00 p.m. This term is further construed to include similar units operated under other names.
46. **DENSITY:** The average number of dwelling units per acre of land, expressed in terms of "units per acre." The area is exclusive of public streets or other public dedications. (Example: 30 dwelling units occupying 4 acres of land is 7.5 units per acre.)
47. **DISTANCE:** Horizontal distances unless otherwise designated.
48. **DISTRICT:** A section or sections of the zoning jurisdiction for which the regulations governing permitted use of buildings and land, the height of buildings, the size of yards, and the intensity of use are uniform.
49. **DOG:** Any canine specie over six (6) months of age.
50. **DWELLING:** Any building, or portion thereof, designed or used primarily for residential purposes, including residential-design manufactured homes and modular homes.
51. **DWELLING, MULTI-FAMILY:** A building, or portion thereof, arranged, intended or designed for occupancy by three (3) or four (4) families. As used herein, this may also be referred to as duplex, triplex or quadplex.
52. **DWELLING, SEASONAL:** A residence intended for occasional, but not permanent, occupancy.
53. **DWELLING, SINGLE-FAMILY:** A building having accommodations for and occupied exclusively by one family. A residential-design manufactured home shall be considered a single-family dwelling.

54. **DWELLING, TWO-FAMILY:** A building, or portion thereof, arranged, intended or designed for occupancy by two families.
55. **DWELLING UNIT:** A building, or part thereof, containing complete housekeeping facilities for one family.
56. **EASEMENT:** A grant by a property owner to specific persons or to the public to use land for a specific purpose or purposes. Also, a right acquired by prescription.
57. **ESTABLISHED SETBACK:** The average setback on each street on which a lot fronts established by three (3) or more buildings; provided, only those properties that are within the same district and within 300 feet on each side of said lot along the same side of the street, but not beyond any intersecting street, are used in determining the established setback.
58. **EXOTIC BIRDS OR ANIMALS:** Birds or animals not commonly kept domestically or that are not native to Rush County and/or the United States. Exotic birds or animals includes, but are not limited to, bears, lions, tigers, cougars, wolves, half-breed wolves, and snakes. Birds in the ratite family, llamas and buffalo shall not be considered as exotic birds or animals.
59. **FAMILY:** One (1) or more persons related by blood or marriage or adoption, living together as a single housekeeping unit plus usual domestic servants; or a group of not more than four (4) unrelated persons living together as a single housekeeping unit.
60. **FAMILY DAY CARE HOME:** A facility licensed by the State of Kansas to provide children under eighteen (18) years of age with food and lodging for less than twenty-four (24) hours per day. This term is further construed to include similar units with different names.
61. **FARMERS MARKET:** The seasonal selling or offering for sale at retail of home-grown vegetables or produce, occurring in a pre-designated area, where the vendors are generally individuals who have raised the vegetables or produce, or have taken the same on consignment for retail sale.
62. **FEED LOT, COMMERCIAL:** A livestock feedlot or feedyard as defined by K.S.A. 47-1501 et seq, licensed by and operated under standards set forth by the State of Kansas.
63. **FLOOD PLAIN:** That area of land subject to inundation of water as a result of what is commonly known as the 100-year flood.
64. **FLOOR AREA:** The square foot area of all space within the outside line of a wall, including the total area of all floor levels, but excluding porches, garages, or unfinished space in a basement or cellar.
65. **FOSTER HOME:** A facility licensed by the State of Kansas for the care of four (4) or less persons unrelated to the operator(s).

66. **FRONT:** The part or side of any building or structure facing the street or frontage road which is used as the basis for establishing the permanent address for the building or structure.
67. **FRONTAGE:**
- (A) **Street Frontage:** All of the property on one side of a street between two intersecting streets (crossing or terminating), measured along the line of the street; or if the street is dead-ended, then all of the property abutting on one side between an intersecting street and the dead-end of the street.
- (B) **Lot Frontage:** The distance for which the front boundary line of the lot and the right-of-way are coincident.
68. **GOVERNING BODY:** The Board of County Commissioners of Rush County, Kansas, or the City Council of the City of Bison, LaCrosse, Liebenthal, McCracken, Otis, Rush Center or Timken, Kansas.
69. **GROUP HOME:** Any dwelling occupied by not more than ten (10) persons, including eight (8) or fewer persons with a disability who need not be related by blood or marriage and not to exceed two (2) staff residents who need not be related by blood or marriage to each other or to the residents of the home, which dwelling is licensed by a regulatory agency of the State of Kansas. For purposes of this definition, disability shall mean:
- (A) **DISABILITY:** A condition, with respect to a person, which means:
1. A physical or mental impairment which substantially limits one or more of such persons major life activities;
  2. A record of having such an impairment; or,
  3. Being regarded as having such an impairment.
- Such terms do not include current, illegal use or addiction to a controlled substance, as defined in Section 102 of the Controlled Substance Act (21 U.S.C. 802).
70. **GROUP DAY CARE HOME:** A facility licensed by the State of Kansas for the care of seven (7) to twelve (12) children under fourteen (14) years of age, and which is maintained for less than twenty-four (24) hours per day.
71. **HAZARDOUS WASTE:** Any waste meeting the definition of K.S.A. 65-3430 and amendments thereto.
72. **HAZARDOUS WASTE DISPOSAL FACILITY:** Any facility which meets the requirements as defined in K.S.A. 65-3430, as amended.



73. **HOME OCCUPATION:** An occupation or business activity which is clearly incidental and secondary to the use of the premises for dwelling.
74. **INDUSTRIAL LANDFILL:** A permitted solid waste disposal area used exclusively for the disposal on land of industrial solid waste.
75. **INDUSTRIAL PARK:** A special or exclusive type of planned industrial area designated and equipped to accommodate a community of industries, providing them with all necessary facilities and services in attractive surroundings among compatible neighbors. Industrial parks may be promoted or sponsored by private developers, community organizations, or governmental organizations.
76. **INDUSTRIAL SOLID WASTE:** Non-toxic, non-hazardous solid waste generated from industrial processing and acceptable as material for disposal in an industrial landfill as determined by the Kansas Department of Health and Environment.
77. **INTENSITY:** The degree or level of concentration to which land is used for commercial, industrial or any other nonresidential purpose.
78. **JUNK:** Old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber debris, waste, or junked, dismantled, or wrecked motor vehicles, or parts thereof, iron, steel and other old or scrap ferrous or nonferrous material.
79. **JUNKYARD:** An establishment which is maintained, operated, or used for storing, keeping, buying, or selling junk, or for the maintenance or operation of a motor vehicle graveyard. This term shall include salvage yards.
80. **KENNEL, BOARDING:** Any place, area, building or structure where dogs (including those under one year of age) are boarded, housed, cared for, fed or trained by other than the owner.
81. **KENNEL, BREEDER:** Any place, area, lot, building or structure where more than four dogs are kept for any purposes.
82. **LANDSCAPING:** The improvement of a lot, parcel or tract of land with grass, shrubs and/or trees. Landscaping may include pedestrian walks, flowerbeds, ornamental features such as fountains, statuary, and other similar natural and artificial objects designed and arranged to produce an aesthetically pleasing effect.
83. **LIVESTOCK SALES YARD:** An enclosure or structure designed or used for holding livestock for purpose of sale or transfer by auction, consignment, or other means.

84. **LOT:** A parcel of land occupied or intended for occupancy by a use permitted in these Regulations, including one (1) main building or unit group of buildings together with permitted accessory buildings and required yard areas and parking spaces, having its principal frontage upon a public street. A lot may include one (1) or more platted lots or metes and bounds described tracts, but must be under single ownership and, when more than one (1) parcel, be contiguous.
85. **LOT AREA:** The area of a horizontal plane bounded by the front, side and rear lot lines, excluding any road right-of-way or road easements.
86. **LOT, CORNER:** A lot abutting upon two or more streets at their intersection.
87. **LOT COVERAGE:** The percentage of a lot which, when viewed directly from above, would be covered by a structure or structures or any part thereof, excluding projecting roof eaves.
88. **LOT, DEPTH OF:** The horizontal distance between the front and rear lot lines measured in the mean direction of the side lot lines.
89. **LOT, DOUBLE FRONTAGE:** A lot having a frontage on two non-intersecting streets, as distinguished from a corner lot.
90. **LOT INTERIOR:** A lot whose side line or lines do not abut upon any street.
91. **LOT LINES:** The lines bounding a lot as defined herein.
92. **LOT OF RECORD:** A lot which is part of a subdivision, the plat of which has been recorded in the office of the County Register of Deeds, or a parcel of land, the deed of which was recorded prior to the adoption of these Regulations.
93. **LOT, WIDTH OF:** The distance, measured on a horizontal plane, between the side lot lines, measured at right angles to the lot depth at the established front building line.
94. **LOT, ZONING:** A parcel or tract of land used, developed, or built as a unit under single ownership or control. Said zoning lot may consist of one or more lots of record, one or more portions of a lot or lots of record, or any combination thereof.
95. **MANUFACTURE:** Any method of processing, developing, fabricating or assembling either raw material, semi-finished materials or parts into semi-finished or finished products.
96. **MANUFACTURED HOME:** A dwelling unit substantially assembled in an off-site manufacturing facility for installation or assembly at the dwelling site, bearing a label certifying that it was built in compliance with National Manufactured Home Construction and Safety Standards (24 CFR 3280 et seq) promulgated by the U.S. Department of Housing and Urban Development.

97. **MANUFACTURED HOME PARK:** An area, parcel, tract, or plot of ground equipped as required for support of manufactured homes and used or intended to be used by two or more occupied manufactured homes, provided the manufactured home spaces shall not be sold or offered for sale individually. The term "manufactured home park" does not include sale lots on which unoccupied manufactured homes, whether new or used, are parked for the purpose of storage, inspection or sale.
98. **MANUFACTURED HOME, RESIDENTIAL-DESIGN:** A manufactured home on a permanent foundation which has (A) minimum dimensions of 22 body feet in width, (B) a pitched roof, and (C) siding and roofing materials which are customarily used on site-built homes.
99. **MOBILE HOME:** A transportable, factory-built structure designed to be used as a year-round residential dwelling, built prior to enactment of the National Manufactured Home Construction and Safety Standards Act, which became effective June 15, 1976, or which fails to meet this standard.
100. **MODULAR HOME:** A dwelling structure located on a permanent foundation and connected to public utilities consisting of preselected, prefabricated units or modules, and transported to and/or assembled on the site of its foundation; in contradistinction to a dwelling structure which is custom-built on the site of its permanent location, and also in contradistinction to a manufactured home or a residential-design manufactured home.
101. **MOTOR VEHICLE:** A motorized vehicle with rubber tires for use on highways, including passenger cars, pick-ups and trucks.
102. **MOTOR VEHICLE GRAVEYARD:** Any establishment which is maintained, used, or operated for storing, keeping, buying, or selling three (3) or more wrecked, scrapped, ruined, dismantled or inoperative motor vehicles; provided, however, such term shall not include any location where motor vehicle bodies are placed along stream banks for purposes of bank stabilization and soil erosion control, if such placement conforms with guidelines established by the Chief Engineer of the Division of Water Resources of the State Board of Agriculture and has been permitted accordingly.
103. **NONCONFORMING BUILDINGS, LAND AND/OR USE:** The use of a building or land which was lawful at the time these Regulations became effective but which, because of the passage of these Regulations, does not conform to the regulations of the district in which it exists.
104. **NONCONFORMING LOT:** An unimproved lot which does not comply with the lot size requirements for any permitted use in the district in which it is located.
105. **NURSING OR CONVALESCENT HOME:** An institution or agency licensed by the State for the reception, board, care or treatment of five (5) or more unrelated individuals, but not including group boarding homes for minors or group homes for adults.

106. **OPEN SPACE:** Useable open space designed and intended for use by all residents of a residential area, including publicly dedicated space.
107. **OVERLAY DISTRICT:** A district which acts in conjunction with the underlying zoning district or districts.
108. **OWNER:** Any person, group of persons, firm or firms, corporation or corporations, or any other legal entity having legal title to a tract of land.
109. **PARKING LOT:** An area, other than a private parking area, street or alley, used for parking of motor vehicles and available for public or semi-public use.
110. **PARKING SPACE:** Any area surfaced for all-weather use, including gravel, sand, or comparable materials, used for the purpose of storing one parked motor vehicle.
111. **PERSON:** Any individual, partnership, joint venture, corporation, or other business or legal entity.
112. **PLANNING COMMISSION:** The Joint Planning Commission of Rush County, Kansas.
113. **PRESCHOOL:** A facility licensed by the State of Kansas to provide daytime care and instruction for children between the age of thirty (30) months and the age at which the children are eligible to attend kindergarten. This term is further construed to include "Day Nursery School" and other similar uses.
114. **RECREATIONAL EQUIPMENT:** An item which is not used in connection with customary accessory residential uses on a lot. Included in the meaning of recreational equipment are such large items as slide-in campers, boat trailers, hang gliders, ski jets, houseboats, pontoons, and boats over fourteen (14) feet in length which require a trailer for transportation.
115. **RECREATIONAL OR SPORTS-RELATED ACTIVITIES OR FACILITIES:** Any lot, plot, parcel or tract of land and/or water; and/or any building or structure, or combination thereof; planned, intended or designed for recreational use. Said activities and/or facilities shall include, but not be limited to, such things as: athletic fields, ball diamonds, golf courses, golf driving ranges, miniature golf courses, swimming pools, natatoriums, tennis courts, racquetball courts, recreational lakes, marinas, racetracks, drag strips, gun clubs, hunting reserves, sporting clay ranges, private shooting ranges, and all common appurtenant accessory activities and facilities such as lighting, bleachers, and concession stands, etc.

116. **RECREATIONAL VEHICLE:** A vehicular-type unit built on or for use on a chassis and designed as living quarters, both permanent and temporary, for recreational, camping or travel use, and which has its own motive power, or is mounted on, or which can be drawn by another vehicle. The term recreational vehicle shall include, but not be limited to, motor homes, travel trailers, camper trailers, pickup truck campers, hauling trailers, and camper buses.
117. **RECREATIONAL VEHICLE CAMPGROUND:** A lot or tract of land designed for occupancy by recreational vehicles for temporary or transient living purposes, including the use of camping spaces for tents.
118. **RESIDENTIAL CENTER:** A non-secure facility licensed by the State of Kansas providing residential care for more than ten (10) persons unrelated to the operator(s).
119. **RESTAURANT:** A building wherein food is prepared and sold to the public for human consumption. Restaurant includes, but is not limited to, cafe, cafeteria, grill, pizza parlor, diner, snack shop, hamburger shop and steak house.
120. **RIGHT-OF-WAY:** A strip of land dedicated or reserved for use as a public way which normally includes streets, sidewalks, or other public utility or service area.
121. **SALE, RETAIL:** The sale of goods, merchandise and/or commodities to the ultimate consumer.
122. **SALE, WHOLESALE:** The sale of goods for resale, or the sale of goods produced or processed from raw materials which require bulk delivery of the product.
123. **SANITARY LANDFILL:** A disposal site in which the method of disposing of solid waste and/or industrial solid waste is by landfill, dump or pit and which has a solid waste disposal permit issued under K.S.A. 65-3401 et seq., and amendments thereto.
124. **SCHOOL:** Any building or buildings housing public or private elementary, junior high, high school, college, university, post-graduate, technical or vocational school, offering courses in general instruction at least five days per week and seven months per year.
125. **SCREENING:** Fencing or vegetation maintained for the purpose of concealing from view.
126. **SETBACK:** The distance between a building and the lot line, or road easement line, whichever provides the desired minimum distance.
127. **SIGN:** See Article 24.
128. **SOLID WASTE:** Garbage, refuse and other discarded materials including, but not limited to solid, semisolid, sludge, liquid and contained gaseous waste materials resulting from commercial, agricultural and domestic activities. Such term shall not include hazardous wastes.

129. **STOCKYARD, COMMERCIAL:** A penned enclosure, or structure, where livestock are maintained temporarily for the purpose of slaughtering, marketing or shipping.
130. **STORY:** That portion of a building, other than a basement, included between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, then the space between the floor and the ceiling next above it.
131. **STORY, HALF:** A story under a gable, hip or gambrel roof of which the wall plates on at least two opposite exterior walls are not more than 2 feet above the floor of such story.
132. **STREET:** An easement or right-of-way, other than an alley, which provides principal access to adjacent properties.
133. **STRUCTURE:** Anything constructed or erected which requires location on the ground, or attached to something having a location on the ground.
134. **TOWNHOUSE:** A single-family dwelling constructed as part of a series of dwellings, all of which are either attached to the adjacent dwelling or dwellings by party walls or are located immediately adjacent thereto with no visible separation between walls or roofs.
135. **TRANSFER STATION:** A facility, including land and buildings, used for the handling and processing of solid waste to be bundled, bailed or otherwise packaged for transport to another site for disposal in a solid waste landfill. Transfer station can include material recovery operations, recycling facilities and any other ancillary and/or accessory operation associated with the management of solid waste.
136. **USE:** The specific purpose for which land or a building is used.
137. **USEABLE OPEN SPACE:** Land or water which is free of buildings, structures and/or substantial improvements and which is readily accessible by the public or residents of a residential development. Useable open space does not include streets, alleys, off-street parking or loading areas, roofs, or slopes in excess of 50 percent.
138. **VISIBILITY TRIANGLE:** The triangular area formed by the intersecting street right-of-way lines and a straight line joining said street right-of-way lines at points which are thirty (30) feet distant from the point of intersection, measured along said right-of-way lines.
139. **YARD:** A required open space, other than a court, unoccupied and unobstructed by any structure or portion of a structure from the general ground level of the graded lot upward; provided, however, that fences, walls, poles, posts and other customary yard accessories, ornaments and furniture may be permitted in any yard, subject to height limitations and requirements limiting obstruction of visibility.
140. **YARD, FRONT:** A yard extending across the full width of the lot, the depth of which is the least distance between the lot line or road easement or right-of-way line and the front building line.

141. **YARD, REAR:** A yard extending across the full width of the lot between the rear building line and the rear lot line, the depth of which is the least distance between the rear lot line and the rear building line.
142. **YARD, SIDE:** A yard between the side building line and the side line of the lot and extending from the front yard to the rear yard and being the least distance between the side lot line and the side building line.
143. **ZONE OR DISTRICT:** A section of the zoning area for which uniform regulations governing the use, height, area, size and intensity of use of buildings, land and open space about buildings are herein established.
144. **ZONING ADMINISTRATOR:** The person or persons authorized and empowered by the Governing Body to administer the requirements of these Regulations.

### 1-105 DISTRICTS

In order to regulate and restrict the use of land and the location of buildings erected or altered for specific uses, to regulate and limit the height and bulk of buildings hereafter erected or structurally altered, to regulate and limit population density and the intensity of the use of lot areas, and to regulate and determine the areas of yards, courts, and other open spaces surrounding such buildings, the unincorporated portion of Rush County is hereby divided into districts of which they shall be in number known as:

"AG"	Agricultural District
"RR"	Rural Residential District
"SR"	Suburban Residential District
"R-1"	Single-Family Residential District
"V-1"	Village District
"FRD"	Floodwater Retarding Dam Breach Impact Overlay District

In order to regulate and restrict the use of land and the location of buildings erected or altered for specific uses, to regulate and limit the height and bulk of buildings hereafter erected or structurally altered, to regulate and limit population density and the intensity of the use of lot areas, and to regulate and determine the areas of yards, courts, and other open spaces surrounding such buildings, the cities of Bison, LaCrosse, Liebenthal, McCracken, Otis, Rush Center and Timken, Kansas, are hereby divided into districts of which they shall be in number known as:

"R-1A"	Single-Family Residential District
"R-1B"	Single-Family Residential District
"R-1C"	Single-Family Residential District
"RP-2"	Planned Medium Density Residential District
"CP-O"	Planned Commercial Office District
"CP-1"	Planned General Commercial District
"CP-2"	Planned Highway Service Commercial District
"CP-3"	Planned Central Business District
"IP-1"	Planned Light Industrial District

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"IP-2"	Planned Medium Industrial District
"PUD"	Planned Unit Development

The following districts shall be applicable within all of the unincorporated portion of Rush County and the cities of Bison, LaCrosse, Liebenthal, McCracken, Otis, Rush Center and Timken, Kansas:

"FP"	Floodplain Overlay District
"AO"	Airport Overlay District

At the time of initial adoption, all lands within the unincorporated portion of Rush County, Kansas, shall be granted zoning consistent with the size of the property as specified within the zoned districts established herein. (i.e. All properties over 40 acres shall be zoned "AG" Agricultural; properties between 10 acres and 40 acres shall be zoned "RR" Rural Residential, etc.) However, certain properties are hereby granted a "Conditional Use" without the benefit of an approved development plan as specified within these Regulations. Those properties granted Conditional Uses shall be those properties which have a legally established land use activity at the time of the adoption of these Regulations and which would require a Conditional Use in order to be established new under the terms of these Regulations. Further, said uses granted a Conditional Use upon the initial adoption of these Regulations shall be permitted to expand, enlarge or otherwise enhance said use on that land contiguous to and owned by the same person at the time of the establishment of this rule. (Example: A landowner is operating a cattle feeding operation that would require a Conditional Use under these Regulations if it were proposed new shall be granted a Conditional Use at the time of the adoption of these Regulations and, further, may expand that operation on any portion of the contiguous land he owned at the time the Regulations were first adopted.)

1. Such land, and the district classification thereof, shall be shown on maps, aerial photos, computer records or other documents deemed appropriate by Rush County and the cities of Bison, LaCrosse, Liebenthal, McCracken, Otis, Rush Center and Timken, Kansas, and such maps, aerial photos, computer records or other documents shall be designated as the "Official Zoning Maps of Rush County, Kansas." Said Zoning Maps, and all symbols, notations, dimensions, and references shown thereon or contained therein pertaining to the established zoning districts shall be as much a part of these Regulations as if they were fully described herein, and shall be filed as part of these Regulations with the Zoning Administrator of Rush County. Said maps or other documents shall be available for inspection in the office of the Zoning Administrator and any later alterations of these maps or other documents, adopted by amendment as provided by these Regulations, shall be filed and made available for public reference. The above stated maps or other documents shall hereinafter be referred to as the "maps" in these Regulations.
2. When uncertainty exists with respect to the boundaries of the various districts as shown on the maps accompanying and made a part of these Regulations, the following rules shall apply:
  - A. In cases where a boundary line is given a position within a street or alley, or navigable or non-navigable stream, it shall be deemed to be in the center of the street, alley, or stream; and if the actual location of such street, alley, or stream varies slightly from the location as shown on the maps, then the actual location shall control.



- B. In cases where a boundary line is shown as being located a specific distance from a street line or other physical feature, this distance shall control.
  - C. In cases where a boundary line is shown adjoining or coincident with a railroad, it shall be deemed to be in the center of the railroad right-of-way and distances measured from a railroad shall be measured from the center of such right-of-way.
  - D. Where the district boundaries are not otherwise indicated and where the property has been, or may hereafter be, divided into blocks and lots, the district boundaries shall be construed to be the lot lines, and where the districts designated on the maps accompanying and made a part of these Regulations are bounded approximately by lot lines, said lot lines shall be construed to be the boundary of such districts unless said boundaries are otherwise indicated on the maps or by Resolution of the Governing Body.
  - E. In unsubdivided property, unless otherwise indicated, the district boundary line on the maps or other documents and/or records accompanying and made a part of these Regulations shall be determined by the use of the scale contained on such maps.
  - F. When a lot held in one ownership on the effective date of these Regulations is divided by a district boundary line, the entire lot shall be construed to be within the less restrictive district; unless otherwise indicated on the maps or by Resolution of the Governing Body.
3. Where a district boundary follows a street, alley, watercourse or other right-of-way, in case of the vacation of said street, alley, watercourse or other right-of-way, the abutting zoning classification of each side thereof shall automatically be extended to the center line of said vacated street, alley, watercourse or right-of-way. Two districts shall be deemed to adjoin even though separated by a public way or portion thereof.

#### **1-106 GENERAL REGULATIONS GOVERNING ALL ZONING DISTRICTS**

1. Except as hereinafter provided:
- A. Land may be used only for those purposes permitted in the district in which it is located.
  - B. Building(s) shall be erected, converted, enlarged, reconstructed, moved, structurally altered, or used only for those uses permitted in the district in which the building(s) is located.
  - C. Building(s) shall be erected, converted, enlarged, reconstructed, moved or structurally altered in conformance with the height, area and bulk regulations herein established for the district in which the building(s) is located.
  - D. If a use in any structure is hereafter changed to another, then the new use must comply with the use regulations of these Regulations.

- E. The minimum yards, parking spaces, open spaces, including lot area per family, required by these Regulations for building(s) existing at the time of the passage of these Regulations, or of any building(s) hereafter erected, shall not be encroached upon or considered as required yard or open space for any other building, nor shall any lot area be reduced below the requirements of these Regulations.
  - F. Every building hereafter erected or structurally altered shall be located on a lot as herein defined and, except as hereinafter provided, in no case shall there be more than one main building on one lot.
  - G. Nothing contained in these Regulations shall be deemed to be consent, license or permit to use any property; to locate, construct or maintain any structure or facility; or to carry on any trade, industry, occupation or activity.
2. All lands used for agricultural purposes as defined within these Regulations, including those agricultural activities that are designated as accessory uses to rural residential uses, are located within an area where land is used for commercial agricultural production. Owners, residents, and other users of this property or neighboring properties may be subjected to inconvenience, discomfort, and the possibility of injury to property and health arising from normal and accepted agricultural practices and operations, including but not limited to, noise, odors, dust, the operation of machinery of any kind, including aircraft, the storage and disposal of manure, and the application of fertilizers, soil amendments, herbicides and pesticides. Owners, occupants, and users of this property and neighboring properties should be prepared to accept such inconveniences, discomfort, and possibility of injury from normal agricultural operations, and are hereby put on official notice that K.S.A. 2-3201 et seq, the "right-to-farm law", may bar them from obtaining a legal judgment against such normal agricultural operations.

### **1-107 VESTING OF DEVELOPMENT RIGHTS**

In conformance with the provisions of K.S.A. 12-764, and any subsequent amendments, the following shall apply:

- 1. The rights of landowners of properties platted or subdivided for rural residential or suburban residential development in conformance with the definition of said terms in the these Regulations shall be protected for use of said land for the intended rural residential or suburban residential purposes for a period of five (5) years from the time in which such property was first platted or subdivided, provided:
  - A. Verifiable evidence is presented showing the date in which said plat or subdivision of land was first created. Acceptable evidence shall be: signed and sealed certificates or plats of survey from a Registered Land Surveyor showing the several lots proposed to be created, either dated or dated and recorded with the Register of Deeds; recorded Restrictive or Protective Covenants for the development; recorded deeds conveying land; or recorded Affidavits of Equitable Interest on contracts for deed for said tracts of land.

- B. Within said five (5) year period actual sales occur resulting in separate owners on the tracts of land.
  - C. The division of land was legally done in conformance with the applicable laws of the State of Kansas.
- 2. Except for lots in a recorded plat, any remaining contiguous tracts of land within the area divided under this rule held in common ownership at the conclusion of said five (5) year period shall be considered an unplatted lot, as defined in these Regulations, and subsequent divisions of said lot shall be in conformance with the Subdivision Regulations then in effect.
  - 3. Properties divided or platted for any use other than agricultural or residential purposes shall not be permitted to develop or further develop except in conformance with these Regulations and the Rush County Subdivision Regulations.

**SECTIONS:****2-101 APPLICATION****2-102 USE REGULATIONS****2-103 PERFORMANCE STANDARDS****2-104 PARKING REGULATIONS****2-105 OFF-STREET LOADING REGULATIONS****2-106 SIGN REGULATIONS****2-107 HEIGHT, AREA AND BULK REGULATIONS****2-108 SUPPLEMENTARY HEIGHT, AREA AND BULK REGULATIONS****2-109 SUPPLEMENTARY USE REGULATIONS****2-101 APPLICATION**

The regulations set forth in this Article, or set forth elsewhere in these Regulations when referred to in this Article, are the regulations in the "AG" Agricultural District. This article shall apply to lands within the unincorporated portion of Rush County, Kansas, as specified within these Regulations.

The purpose of this District is to provide for a full range of agricultural activities by family farms on land used for agricultural purposes, including processing and sale of agricultural products raised on the premises; and at the same time offer protection to land used for agricultural purposes from the depreciating effect of objectionable, hazardous, incompatible and unsightly uses. The District is also intended to protect watersheds and water supplies; to protect the use of natural resources in the production of agricultural products and prevent and/or discourage their conversion to other uses not in the interests of the citizens of Rush County; to protect forest and scenic areas; to conserve fish and wildlife habitat; to promote forestry; and to prevent and/or discourage untimely scattering of residential, and/or more dense urban development.

All lands used for agricultural purposes by family farms, as defined in these Regulations, are and shall be exempt from any and all restrictions or limitations. No administrative interpretation shall be made that results in any restriction or stipulation on land used for agricultural purposes by family farms as herein defined; provided, however that consistent with state law, new agricultural buildings shall be subject to floodplain regulations and to setback requirements on that part of agricultural lands fronting on designated major roads and highways. Any proposal for change of land used for agricultural purposes by family farms to nonagricultural uses shall be subject to the requirements of these Regulations.

**2-102 USE REGULATIONS**

In District "AG", no building, structure, land or premises shall be used and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, except for one or more of the following uses:

1. Agricultural uses.
2. Grain storage structures.

3. Wellhead stations, well separators, tank batteries or other similar above ground facilities used merely for distribution, transmission or temporary storage of oil or natural gas.
4. Oil and/or gas well drilling operations, and temporary on-site storage of oil and gas field-related equipment and supplies, but not a junk yard.
5. Commercial wind generation facilities.
6. Single-family dwellings.
7. Group Homes as defined in these Regulations.
8. Railroad rights-of-way, including a strip of land with tracks and auxiliary facilities for track operations, but not including passenger stations, freight terminals, switching and classification yards, repair shops, roundhouses, powerhouses, interlocking towers, and fueling, sanding and watering stations.

**2-103 PERFORMANCE STANDARDS**

The Performance Standards for permitted uses are contained in Article 22 of these Regulations.

**2-104 PARKING REGULATIONS**

The Parking Regulations for permitted uses are contained in Article 23 of these Regulations.

**2-105 OFF-STREET LOADING REGULATIONS**

The Off-Street Loading Regulations for permitted uses are contained in Article 24 of these Regulations.

**2-106 SIGN REGULATIONS**

The Sign Regulations are contained in Article 25 of these Regulations.

**2-107 Height, Area and Bulk Regulations**

In the "AG" Agricultural District, the minimum dimensions of yards required along designated major roads and highways in Rush County shall be as follows:

1. **Front Yard:** The depth of the front yard for properties on major roads or highways shall be at least 75 feet.
2. **Side Yard:** For properties on major roads or highways, there shall be a side yard on each side of a dwelling. No side yard shall be less than 50 feet.
3. **Rear Yard:** The depth of the rear yard for properties on major roads or highways shall be at least 50 feet.

4. **Lot Area:** Every lot shall be a minimum of 40 acres. A lot described as a quarter/quarter (i.e. 1/4 of 1/4 of a section) or as a Government Lot from the original government survey shall be deemed to meet the lot size requirements for the "AG" Agricultural District even though said lot may net less than a full 40 acres.
5. **Intensity of Use:** A maximum of two (2) dwellings may be established on each forty (40) acres (i.e. 1/4 of 1/4 of a section or a Government Lot). A minimum of two (2) acres of land with a minimum of 165 feet of lot width must be provided for each dwelling. The dwellings may be located next to one another in the same general location on the twenty acres.
6. **Lot Dimensions:** The minimum width of a lot shall be 660 feet. The minimum depth of a lot shall be 660 feet. There shall not be a lot width to lot depth ratio greater than 1:4 (i.e. the depth of the lot cannot be greater than 4 times the width of the lot). In the event of unusual lot configurations, the Zoning Administrator shall determine whether the lot dimensions meet the spirit and intent of this requirement.

The Area and Bulk Regulations are also set forth in the chart of Article 26. Said chart, and all notations and requirements shown therein, shall have the same force and effect as if all the notations and requirements were fully set forth or described herein.

#### **2-108 SUPPLEMENTARY HEIGHT, AREA AND BULK REGULATIONS**

The Supplementary Height, Area and Bulk Regulations are contained in Article 27 of these Regulations.

#### **2-109 SUPPLEMENTARY USE REGULATIONS**

The Supplementary Use Regulations, including permitted Conditional Uses and Accessory Uses, are contained in Article 28 of these Regulations.

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# ARTICLE 3 "RR" RURAL RESIDENTIAL DISTRICT REGULATIONS

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## **SECTIONS:**

### **3-101 APPLICATION**

### **3-102 USE REGULATIONS**

### **3-103 PERFORMANCE STANDARDS**

### **3-104 PARKING REGULATIONS**

### **3-105 OFF-STREET LOADING REGULATIONS**

### **3-106 SIGN REGULATIONS**

### **3-107 HEIGHT, AREA AND BULK REGULATIONS**

### **3-108 SUPPLEMENTARY HEIGHT, AREA AND BULK REGULATIONS**

### **3-109 SUPPLEMENTARY USE REGULATIONS**

### **3-101 APPLICATION**

The regulations set forth in this Article, or set forth elsewhere in these Regulations when referred to in this Article, are the regulations in the "RR" Rural Residential District. The provisions of this district shall apply within the unincorporated portion of Rush County, Kansas, as specified within these Regulations.

The purpose of this District is to provide for the platted rural, low-density residential developments that retain the character of a rural area with very limited residential development. This district is intended to serve as a transition area between agricultural lands and more dense suburban residential development. Hence, it is suitable in rural locations where adequate public roads and public services are available, but it is not suitable in areas predominately agricultural in character where public and/or private services are adequate only to meet the needs of farm residences and farm operations.

The density of any individual proposed development shall be determined by the adequacy of the site to meet the development standards and policies of these and all other Rush County rules and regulations; including but not limited to the Subdivision Regulations, Environmental/Sanitary Code, soil suitability classification, and other such factors that will justify and support such proposed density. The burden of proof for such proposed density shall be on the person proposing the development and the city may require of said person any and all such proof deemed necessary before any approval of the project may be granted.

### **3-102 USE REGULATIONS**

In District "RR," no building, structure, land or premises shall be used and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, except for one or more of the following uses:

1. Single-family dwellings.
2. Group Homes as defined in these Regulations.
3. Wellhead stations, well separators, tank batteries or other similar above ground facilities used merely for distribution, transmission or temporary storage of oil or natural gas.
4. Oil and/or gas well drilling operations, and temporary on-site storage of oil and gas field-related equipment and supplies, but not a junk yard.



## ARTICLE 3 “RR” RURAL RESIDENTIAL DISTRICT REGULATIONS

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5. Railroad rights-of-way, including a strip of land with tracks and auxiliary facilities for track operations, but not including passenger stations, freight terminals, switching and classification yards, repair shops, roundhouses, powerhouses, interlocking towers, and fueling, sanding and watering stations.

### **3-103 PERFORMANCE STANDARDS**

The Performance Standards for permitted uses are contained in Article 22 of these Regulations.

### **3-104 PARKING REGULATIONS**

The Parking Regulations for permitted uses are contained in Article 23 of these Regulations.

### **3-105 OFF-STREET LOADING REGULATIONS**

The Off-Street Loading Regulations for permitted uses are contained in Article 24 of these Regulations.

### **3-106 SIGN REGULATIONS**

The Sign Regulations are contained in Article 25 of these Regulations.

### **3-107 HEIGHT, AREA AND BULK REGULATIONS**

In the "RR" Rural Residential District, the height of buildings, the minimum dimensions of lots and yards, and the minimum lot area per dwelling unit permitted on any lot shall be as follows:

1. **Height:** Nonagricultural buildings or structures shall not exceed 35 feet and/or 2-1/2 stories in height.
2. **Front Yard:** The depth of the front yard shall be at least 75 feet.
3. **Side Yard:** There shall be a side yard on each side of a dwelling. No side yard shall be less than 50 feet.
4. **Rear Yard:** The depth of the rear yard shall be at least 50 feet.
5. **Lot Dimensions:** The minimum width of a lot shall be 330 feet. The minimum depth of a lot shall be 330 feet. There shall not be a lot depth to lot width ratio greater than 3:1 (i.e. the depth of the lot cannot be greater than 3 times the width of the lot). In the event of unusual lot configurations, the Zoning Administrator shall determine whether the lot dimensions meet the spirit and intent of this requirement.
6. **Lot Area Per Dwelling Unit:** Every dwelling hereafter erected, constructed, reconstructed, moved or altered shall provide a minimum lot area of 435,600 square feet or ten (10) acres per dwelling unit.

The Height, Area and Bulk Regulations are also set forth in the chart of Article 26. Said chart, and all notations and requirements shown therein, shall have the same force and effect as if all the notations and requirements were fully set forth or described herein.

## ARTICLE 3 “RR” RURAL RESIDENTIAL DISTRICT REGULATIONS

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### **3-108 SUPPLEMENTARY HEIGHT, AREA AND BULK REGULATIONS**

The Supplementary Height, Area and Bulk Regulations are contained in Article 27 of these Regulations.

### **3-109 SUPPLEMENTARY USE REGULATIONS**

The Supplementary Use Regulations, including permitted Conditional Uses and Accessory Uses, are contained in Article 28 of these Regulations.

## ARTICLE 3 “RR” RURAL RESIDENTIAL DISTRICT REGULATIONS

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## **SECTIONS:**

### **4-101 APPLICATION**

### **4-102 USE REGULATIONS**

### **4-103 PERFORMANCE STANDARDS**

### **4-104 PARKING REGULATIONS**

### **4-105 OFF-STREET LOADING REGULATIONS**

### **4-106 SIGN REGULATIONS**

### **4-107 HEIGHT, AREA AND BULK REGULATIONS**

### **4-108 SUPPLEMENTARY HEIGHT, AREA AND BULK REGULATIONS**

### **4-109 SUPPLEMENTARY USE REGULATIONS**

### **4-101 APPLICATION**

The regulations set forth in this Article, or set forth elsewhere in these Regulations when referred to in this Article, are the regulations in the "SR" Suburban Residential District. The provisions of this district shall apply within the unincorporated portion of Rush County, Kansas, as specified within these Regulations.

The purpose of this District is to provide for the platted development of low-density residential neighborhoods that retain the character of the basically rural area and yet allow an influx of residential development. This district is limited to those areas where adequate water, sewage disposal and other infrastructure presently exists; or may be approved outside such areas only when adequate water, sewage disposal and other infrastructure, as well as the delivery of support services can be demonstrated and proved to the satisfaction of the city. The density of any individual proposed development shall be determined by the adequacy of the site to meet the development standards and policies of these and all other Rush County rules and regulations, including but not limited to the Subdivision Regulations, Environmental/Sanitary Code, soil suitability classification, and other such factors that will justify and support such proposed density. The burden of proof for such proposed density shall be on the person proposing the development and the city may require of said person any and all such proof deemed necessary before any approval of the project may be granted.

### **4-102 USE REGULATIONS**

In District "SR," no building, structure, land or premises shall be used and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, except for one or more of the following uses:

1. Single-family dwellings.
2. Group Homes as defined in these Regulations.
3. Wellhead stations, well separators, tank batteries or other similar above ground facilities used merely for distribution, transmission or temporary storage of oil or natural gas.
4. Oil and/or gas well drilling operations, and temporary on-site storage of oil and gas field-related equipment and supplies, but not a junk yard.

## ARTICLE 4 "SR" SUBURBAN RESIDENTIAL DISTRICT REGULATIONS

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5. Railroad rights-of-way, including a strip of land with tracks and auxiliary facilities for track operations, but not including passenger stations, freight terminals, switching and classification yards, repair shops, roundhouses, powerhouses, interlocking towers, and fueling, sanding and watering stations.

### **4-103 PERFORMANCE STANDARDS**

The Performance Standards for permitted uses are contained in Article 22 of these Regulations.

### **4-104 PARKING REGULATIONS**

The Parking Regulations for permitted uses are contained in Article 23 of these Regulations.

### **4-105 OFF-STREET LOADING REGULATIONS**

The Off-Street Loading Regulations for permitted uses are contained in Article 24 of these Regulations.

### **4-106 SIGN REGULATIONS**

The Sign Regulations are contained in Article 25 of these Regulations.

### **4-107 HEIGHT, AREA AND BULK REGULATIONS**

In the "SR" Suburban Residential District, the height of buildings, the minimum dimensions of lots and yards, and the minimum lot area per dwelling unit permitted on any lot shall be as follows:

1. **Height:** Nonagricultural buildings or structures shall not exceed 35 feet and/or 2-1/2 stories in height.
2. **Front Yard:** The depth of the front yard shall be at least 50 feet.
3. **Side Yard:** There shall be a side yard on each side of a dwelling. No side yard shall be less than 30 feet.
4. **Rear Yard:** The depth of the rear yard shall be at least 50 feet.
5. **Lot Dimensions:** The minimum width of a lot shall be 165 feet. The minimum depth of a lot shall be 250 feet. There shall not be a lot width to lot depth ratio greater than 3:1 (i.e. the depth of the lot cannot be greater than 3 times the width of the lot). In the event of unusual lot configurations, the Zoning Administrator shall determine whether the lot dimensions meet the spirit and intent of this requirement.
6. **Lot Area Per Dwelling Unit:** Every dwelling hereafter erected, constructed, reconstructed, moved or altered shall provide a minimum lot area of 43,560 square feet or one (1) acre per dwelling unit if said lot is provided with public water; or 87,120 square feet or two (2) acres per dwelling unit if said lot is provided with on-site water well.

The Height, Area and Bulk Regulations are also set forth in the chart of Article 26. Said chart, and all notations and requirements shown therein, shall have the same force and effect as if all the notations and requirements were fully set forth or described herein.

## ARTICLE 4 “SR” SUBURBAN RESIDENTIAL DISTRICT REGULATIONS

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### **4-108 SUPPLEMENTARY HEIGHT, AREA AND BULK REGULATIONS**

The Supplementary Height, Area and Bulk Regulations are contained in Article 27 of these Regulations.

### **4-109 SUPPLEMENTARY USE REGULATIONS**

The Supplementary Use Regulations, including permitted Conditional Uses and Accessory Uses, are contained in Article 28 of these Regulations.

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**SECTIONS:****5-101 APPLICATION****5-102 USE REGULATIONS****5-103 PERFORMANCE STANDARDS****5-104 PARKING REGULATIONS****5-105 OFF-STREET LOADING REGULATIONS****5-106 SIGN REGULATIONS****5-107 HEIGHT, AREA AND BULK REGULATIONS****5-108 SUPPLEMENTARY HEIGHT, AREA AND BULK REGULATIONS****5-109 SUPPLEMENTARY USE REGULATIONS****5-101 APPLICATION**

The regulations set forth in this Article, or set forth elsewhere in these Regulations when referred to in this Article, are the regulations in the "V-1" Village District. The provisions of this Article shall apply to the unincorporated portion of Rush County only.

This District is designed to encourage the continued existence of small unincorporated "villages" (i.e. townsites platted many years ago and intended to become cities, but which never incorporated or became cities) by placing few restrictions on their use and further residential development. No development of new "villages" is contemplated under these provisions and only fill-in type development of existing "villages" with low intensity uses is intended.

**5-102 USE REGULATIONS**

In District "V-1," no building, structure, land or premises shall be used and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, except for one or more of the following uses:

1. Any use permitted in the "R-1" Single-Family Residential District.
2. All other uses, including any proposed commercial and industrial uses, shall require a Conditional Use Permit.

**5-103 PERFORMANCE STANDARDS**

The Performance Standards for permitted uses are contained in Article 22 of these Regulations.

**5-104 PARKING REGULATIONS**

The Parking Regulations for permitted uses are contained in Article 23 of these Regulations.

**5-105 OFF-STREET LOADING REGULATIONS**

The Off-Street Loading Regulations for permitted uses are contained in Article 24 of these Regulations.



**5-106 SIGN REGULATIONS**

The Sign Regulations are contained in Article 25 of these Regulations.

**5-107 HEIGHT, AREA AND BULK REGULATIONS**

In the "V-1" Village District, the height of buildings, the minimum dimensions of lots and yards, and the minimum lot area permitted on any lot shall be as follows:

1. **Height:** Buildings and structures shall not exceed 35 feet and/or 2-1/2 stories in height.
2. **Front Yard:** The depth of the front yard shall be at least 30 feet.
3. **Side Yard:** There shall be a side yard on each side of a building. No side yard shall be less than 10 feet.
4. **Rear Yard:** The depth of the rear yard shall be at least 20 feet.
5. **Lot Dimensions:** No minimum lot dimensions are established, however, it is anticipated that every lot shall provide sufficient setbacks as specified herein and still provide adequate building area.
6. **Lot Area:** No minimum lot area is established, however, it is expected that sufficient area will be provided to meet the requirements established herein and provide for the proper provision for safe water and the sanitary disposal of sewage in accordance with the Rush County Environmental/Sanitary Code.

The Height, Area and Bulk Regulations are also set forth in the chart of Article 26. Said chart, and all notations and requirements shown therein, shall have the same force and effect as if all the notations and requirements were fully set forth or described herein.

**5-108 SUPPLEMENTARY HEIGHT, AREA AND BULK REGULATIONS**

The Supplementary Height, Area and Bulk Regulations are contained in Article 27 of these Regulations.

**5-109 SUPPLEMENTARY USE REGULATIONS**

The Supplementary Use Regulations, including permitted Conditional Uses and Accessory Uses, are contained in Article 28 of these Regulations.

# ARTICLE 6 "R-1" SINGLE-FAMILY RESIDENTIAL DISTRICT REGULATIONS

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## **SECTIONS:**

### **6-101 APPLICATION**

### **6-102 USE REGULATIONS**

### **6-103 PERFORMANCE STANDARDS**

### **6-104 PARKING REGULATIONS**

### **6-105 OFF-STREET LOADING REGULATIONS**

### **6-106 SIGN REGULATIONS**

### **6-107 HEIGHT, AREA AND BULK REGULATIONS**

### **6-108 SUPPLEMENTARY HEIGHT, AREA AND BULK REGULATIONS**

### **6-109 SUPPLEMENTARY USE REGULATIONS**

### **6-101 APPLICATION**

The regulations set forth in this Article, or set forth elsewhere in these Regulations when referred to in this Article, are the regulations in the "R-1" Single-Family Residential District. The provisions of this district shall apply within the unincorporated portion of Rush County, Kansas, as specified within these Regulations.

The purpose of this District is to provide for platted single-family residential development of a more urban character where public sanitary sewers and water, and other necessary public utilities and services are present to support the development. As such, it is intended to be used only where such public utilities and services are present to serve such development or where such utilities and services are to be provided by the developer as a part of the project. The District is also designed to protect and preserve existing development of a similar character.

### **6-102 USE REGULATIONS**

In District "R-1," no building, structure, land or premises shall be used and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, except for one or more of the following uses:

1. Single-family dwellings.
2. Group Homes as defined in these Regulations.
3. Wellhead stations, well separators, tank batteries or other similar above ground facilities used merely for distribution, transmission or temporary storage of oil or natural gas.
4. Oil and/or gas well drilling operations, and temporary on-site storage of oil and gas field-related equipment and supplies, but not a junk yard.
5. Railroad rights-of-way, including a strip of land with tracks and auxiliary facilities for track operations, but not including passenger stations, freight terminals, switching and classification yards, repair shops, roundhouses, powerhouses, interlocking towers, and fueling, sanding and watering stations.

### **6-103 PERFORMANCE STANDARDS**

The Performance Standards for permitted uses are contained in Article 22 of these Regulations.

## ARTICLE 6 "R-1" SINGLE-FAMILY RESIDENTIAL DISTRICT REGULATIONS

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### **6-104 PARKING REGULATIONS**

The Parking Regulations for permitted uses are contained in Article 23 of these Regulations.

### **6-105 OFF-STREET LOADING REGULATIONS**

The Off-Street Loading Regulations for permitted uses are contained in Article 24 of these Regulations.

### **6-106 SIGN REGULATIONS**

The Sign Regulations are contained in Article 25 of these Regulations.

### **6-107 HEIGHT, AREA AND BULK REGULATIONS**

In the "R-1" Single-Family Residential District, the height of buildings, the minimum dimensions of lots and yards, and the minimum lot area per dwelling unit permitted on any lot shall be as follows:

1. **Height:** Nonagricultural buildings or structures shall not exceed 35 feet and/or 2-1/2 stories in height.
2. **Front Yard:** The depth of the front yard shall be at least 30 feet.
3. **Side Yard:** There shall be a side yard on each side of a dwelling. No side yard shall be less than 15 feet.
4. **Rear Yard:** The depth of the rear yard shall be at least 20 feet.
5. **Lot Dimensions:** The minimum width of a lot shall be 100 feet. The minimum depth of a lot shall be 150 feet.
6. **Lot Area Per Dwelling Unit:** Every dwelling hereafter erected, constructed, reconstructed, moved or altered shall provide a minimum lot area of 20,000 square feet.

The Height, Area and Bulk Regulations are also set forth in the chart of Article 26. Said chart, and all notations and requirements shown therein, shall have the same force and effect as if all the notations and requirements were fully set forth or described herein.

### **6-108 SUPPLEMENTARY HEIGHT, AREA AND BULK REGULATIONS**

The Supplementary Height, Area and Bulk Regulations are contained in Article 27 of these Regulations.

### **6-109 SUPPLEMENTARY USE REGULATIONS**

The Supplementary Use Regulations, including permitted Conditional Uses and Accessory Uses, are contained in Article 28 of these Regulations.

## ARTICLE 7 "R-1A" SINGLE-FAMILY RESIDENTIAL DISTRICT REGULATIONS

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### SECTIONS:

**7-101 APPLICATION**

**7-102 USE REGULATIONS**

**7-103 PERFORMANCE STANDARDS**

**7-104 PARKING REGULATIONS**

**7-105 OFF-STREET LOADING REGULATIONS**

**7-106 SIGN REGULATIONS**

**7-107 HEIGHT, AREA, AND BULK REGULATIONS**

**7-108 SUPPLEMENTARY HEIGHT, AREA AND BULK REGULATIONS**

**7-109 SUPPLEMENTARY USE REGULATIONS**

The regulations set forth in this Article, or set forth elsewhere in these Regulations when referred to in this Article, are the regulations in the "R-1A" Single-Family Residential District. The provisions of this district shall apply within the cities of Bison, LaCrosse, Liebenthal, McCracken, Otis, Rush Center and Timken as specified within these Regulations.

The purpose of this District is to provide for single-family residential development of a moderately spacious character where public utilities are present to support the development. The District is also designed to protect and preserve existing development of a similar character.

### **7-102 USE REGULATIONS**

In District "R-1A" no building, structure, land or premises shall be used and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, except for one or more of the following uses:

1. Single-family dwellings.
2. Railroad right-of-ways, including a strip of land with tracks and auxiliary facilities for track operations, but not including passenger stations, freight terminals, switching and classifications yards, repair shops, roundhouses, powerhouses, interlocking towers, and fueling, sanding, and watering stations.
3. Temporary buildings, the uses of which are incidental to construction operations or sale of lots during development being conducted on the same or adjoining tract or subdivision, but not for use as a residence; and which shall be removed upon completion or abandonment of such construction, or upon the expiration of a period of one year from the time of erection of such temporary buildings, whichever is sooner.

### **7-103 PERFORMANCE STANDARDS**

The Performance Standards for permitted uses are contained in Article 22 of these Regulations.

### **7-104 PARKING REGULATIONS**

The Parking Regulations for permitted uses are contained in Article 23 of these Regulations.

## **ARTICLE 7 "R-1A" SINGLE-FAMILY RESIDENTIAL DISTRICT REGULATIONS**

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### **7-105 OFF-STREET LOADING REGULATIONS**

The Off-Street Loading Regulations for permitted uses are contained in Article 24 of these Regulations.

### **7-106 SIGN REGULATIONS**

The Sign Regulations are contained in Article 25 of these Regulations.

### **7-107 HEIGHT, AREA, AND BULK REGULATIONS**

In the "R-1A" Single-Family Residential District, the height of buildings, the minimum dimensions of lots and yards, and the minimum lot area per family permitted on any lot shall be as follows:

1. Height: Buildings or structures shall not exceed 35 feet and/or 2-1/2 stories in height.
2. Front Yard: The depth of the front yard shall be at least 30 feet.
3. Side Yard: There shall be a side yard on each side of a dwelling. No side yard shall be less than 10 feet.
4. Rear Yard: The depth of the rear yard shall be at least 20 feet.
5. Lot Dimensions: The minimum width of a lot shall be 80 feet. The minimum depth of a lot shall be 100 feet.
6. Lot Area Per Family: Every dwelling hereafter erected, constructed, reconstructed, moved or altered, shall provide a minimum lot area of 10,000 square feet per family.

The Height, Area and Bulk Regulations are also set forth in the chart of Article 26. Said chart, and all notations and requirements shown therein, shall have the same force and effect as if all the notations and requirements were fully set forth or described herein.

### **7-108 SUPPLEMENTARY HEIGHT, AREA AND BULK REGULATIONS**

The Supplementary Height, Area and Bulk Regulations are contained in Article 27 of these Regulations.

### **7-109 SUPPLEMENTARY USE REGULATIONS**

The Supplementary Use Regulations, including permitted Conditional Uses and Accessory Uses, are contained in Article 28 of these Regulations.

## ARTICLE 8 "R-1B" SINGLE-FAMILY RESIDENTIAL DISTRICT REGULATIONS

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### **SECTIONS:**

- 8-101 APPLICATION**
- 8-102 USE REGULATIONS**
- 8-103 PERFORMANCE STANDARDS**
- 8-104 PARKING REGULATIONS**
- 8-105 OFF-STREET LOADING REGULATIONS**
- 8-106 SIGN REGULATIONS**
- 8-107 HEIGHT, AREA, AND BULK REGULATIONS**
- 8-108 SUPPLEMENTARY HEIGHT, AREA AND BULK REGULATIONS**
- 8-109 SUPPLEMENTARY USE REGULATIONS**

### **8-101 APPLICATION**

The regulations set forth in this Article, or set forth elsewhere in these Regulations when referred to in this Article, are the regulations in the "R-1B" Single-Family Residential District. The provisions of this district shall apply within the cities of Bison, LaCrosse, Liebenthal, McCracken, Otis, Rush Center and Timken as specified within these Regulations.

The purpose of this District is to provide for single-family residential development of a higher density, serviced by public utilities, and accessible to public infrastructure capable of supporting the development. The District is also designed to protect and preserve existing development of a similar character.

### **8-102 USE REGULATIONS**

In District "R-1B" no building, structure, land or premises shall be used and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, except for one or more of the following uses:

1. Single-family dwellings.
2. Railroad right-of-ways, including a strip of land with tracks and auxiliary facilities for track operations, but not including passenger stations, freight terminals, switching and classifications yards, repair shops, roundhouses, powerhouses, interlocking towers, and fueling, sanding, and watering stations.
3. Temporary buildings, the uses of which are incidental to construction operations or sale of lots during development being conducted on the same or adjoining tract or subdivision, but not for use as a residence; and which shall be removed upon completion or abandonment of such construction, or upon the expiration of a period of one year from the time of erection of such temporary buildings, whichever is sooner.

### **8-103 PERFORMANCE STANDARDS**

The Performance Standards for permitted uses are contained in Article 22 of these Regulations.

### **8-104 PARKING REGULATIONS**

The Parking Regulations for permitted uses are contained in Article 23 of these Regulations.

## **ARTICLE 8 "R-1B" SINGLE-FAMILY RESIDENTIAL DISTRICT REGULATIONS**

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### **8-105 OFF-STREET LOADING REGULATIONS**

The Off-Street Loading Regulations for permitted uses are contained in Article 24 of these Regulations.

### **8-106 SIGN REGULATIONS**

The Sign Regulations are contained in Article 25 of these Regulations.

### **8-107 HEIGHT, AREA, AND BULK REGULATIONS**

In the "R-1B" Single-Family Residential District, the height of buildings, the minimum dimensions of lots and yards, and the minimum lot area per family permitted on any lot shall be as follows:

1. Height: Buildings or structures shall not exceed 35 feet and/or 2-1/2 stories in height.
2. Front Yard: The depth of the front yard shall be at least 30 feet.
3. Side Yard: There shall be a side yard on each side of a dwelling. No side yard shall be less than 5 feet.
4. Rear Yard: The depth of the rear yard shall be at least 20 feet.
5. Lot Dimensions: The minimum width of a lot shall be 65 feet. The minimum depth of a lot shall be 100 feet.
6. Lot Area Per Family: Every dwelling hereafter erected, constructed, reconstructed, moved or altered, shall provide a minimum lot area of 7,000 square feet per family.

The Height, Area and Bulk Regulations are also set forth in the chart of Article 26. Said chart, and all notations and requirements shown therein, shall have the same force and effect as if all the notations and requirements were fully set forth or described herein.

### **8-108 SUPPLEMENTARY HEIGHT, AREA AND BULK REGULATIONS**

The Supplementary Height, Area and Bulk Regulations are contained in Article 27 of these Regulations.

### **8-109 SUPPLEMENTARY USE REGULATIONS**

The Supplementary Use Regulations, including permitted Conditional Uses and Accessory Uses, are contained in Article 28 of these Regulations.

**SECTIONS:**

- 9-101 APPLICATION**
- 9-102 USE REGULATIONS**
- 9-103 PERFORMANCE STANDARDS**
- 9-104 PARKING REGULATIONS**
- 9-105 OFF-STREET LOADING REGULATIONS**
- 9-106 SIGN REGULATIONS**
- 9-107 HEIGHT, AREA, AND BULK REGULATIONS**
- 9-108 SUPPLEMENTARY HEIGHT, AREA AND BULK REGULATIONS**
- 9-109 SUPPLEMENTARY USE REGULATIONS**

**9-101 APPLICATION**

The regulations set forth in this Article, or set forth elsewhere in these Regulations when referred to in this Article, are the regulations in the "R-1C" Single-Family Residential District. The provisions of this district shall apply within the cities of Bison, LaCrosse, Liebenthal, McCracken, Otis, Rush Center and Timken as specified within these Regulations.

The purpose of this District is to protect and preserve existing single-family development on small lots inside the city. Creation of new developments of densities allowed within this district are prohibited. This district is not to be used except to accommodate existing development.

**9-102 USE REGULATIONS**

In District "R-1C" no building, structure, land or premises shall be used and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, except for one or more of the following uses:

1. Single-family dwellings.
2. Railroad right-of-ways, including a strip of land with tracks and auxiliary facilities for track operations, but not including passenger stations, freight terminals, switching and classifications yards, repair shops, roundhouses, powerhouses, interlocking towers, and fueling, sanding, and watering stations.

**9-103 PERFORMANCE STANDARDS**

The Performance Standards for permitted uses are contained in Article 22 of these Regulations.

**9-104 PARKING REGULATIONS**

The Parking Regulations for permitted uses are contained in Article 23 of these Regulations.

**9-105 OFF-STREET LOADING REGULATIONS**

The Off-Street Loading Regulations for permitted uses are contained in Article 24 of these Regulations.



## ARTICLE 9 "R-1C" SINGLE-FAMILY RESIDENTIAL DISTRICT REGULATIONS

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### **9-106 SIGN REGULATIONS**

The Sign Regulations are contained in Article 25 of these Regulations.

### **9-107 HEIGHT, AREA, AND BULK REGULATIONS**

In the "R-1C" Single-Family Residential District, the height of buildings, the minimum dimensions of lots and yards, and the minimum lot area per family permitted on any lot shall be as follows:

1. **Height:** Buildings or structures shall not exceed 35 feet and/or 2-1/2 stories in height.
2. **Front Yard:** The depth of the front yard shall be at least 30 feet.
3. **Side Yard:** There shall be a side yard on each side of a dwelling. No side yard shall be less than 5 feet.
4. **Rear Yard:** The depth of the rear yard shall be at least 20 feet.
5. **Lot Dimensions:** The minimum width of a lot shall be 40 feet. The minimum depth of a lot shall be 100 feet.
6. **Lot Area Per Family:** Every dwelling hereafter erected, constructed, reconstructed, moved or altered, shall provide a minimum lot area of 5,600 square feet per family.

The Height, Area and Bulk Regulations are also set forth in the chart of Article 26. Said chart, and all notations and requirements shown therein, shall have the same force and effect as if all the notations and requirements were fully set forth or described herein.

### **9-108 SUPPLEMENTARY HEIGHT, AREA AND BULK REGULATIONS**

The Supplementary Height, Area and Bulk Regulations are contained in Article 27 of these Regulations.

### **9-109 SUPPLEMENTARY USE REGULATIONS**

The Supplementary Use Regulations, including permitted Conditional Uses and Accessory Uses, are contained in Article 28 within these Regulations.

**SECTIONS:**

- 10-101 APPLICATION**
- 10-102 USE REGULATIONS**
- 10-103 PLAN APPROVAL GUIDELINES**
- 10-104 PERFORMANCE STANDARDS**
- 10-105 PARKING REGULATIONS**
- 10-106 OFF-STREET LOADING REGULATIONS**
- 10-107 SIGN REGULATIONS**
- 10-108 HEIGHT, AREA, AND BULK REGULATIONS**
- 10-109 SUPPLEMENTARY HEIGHT, AREA, AND BULK REGULATIONS**
- 10-110 SUPPLEMENTARY USE REGULATIONS**

**10-101 APPLICATION**

The regulations set forth in this Article, or set forth elsewhere in these Regulations when referred to in this Article, are the regulations in the "RP-2" Planned Medium Density Residential District. The provisions of this district shall apply within the cities of Bison, LaCrosse, Liebenthal, McCracken, Otis, Rush Center and Timken as specified within these Regulations.

The purpose of this District is to maintain a generally spacious residential environment of existing single-family neighborhoods, and at the same time permit multi-family dwellings within those neighborhoods as in-fill development. Also, it is intended to accommodate new developments of multi-family dwellings adjacent to, or near areas planned for higher density development.

**10-102 USE REGULATIONS**

In District "R-2," no building, structure, land or premises shall be used and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, except for one or more of the following uses:

1. Any use permitted in the "R-1A" Single-Family Residential District.
2. Multi-family dwellings.
3. Apartments, only with the subsequent approval of a Conditional Use Permit as provided in Article 28 herein.

**10-103 PLAN APPROVAL GUIDELINES**

The Plan Approval Guidelines for permitted uses are contained in Article 21 of these Regulations.

**10-104 PERFORMANCE STANDARDS**

The Performance Standards for permitted uses are contained in Article 22 of these Regulations.

**10-105 PARKING REGULATIONS**

The Parking Regulations for permitted uses are contained in Article 23 of these Regulations.

**10-106 OFF-STREET LOADING REGULATIONS**

The Off-Street Loading Regulations for permitted uses are contained in Article 24 of these Regulations.

**10-107 SIGN REGULATIONS**

The Sign Regulations are contained in Article 25 of these Regulations.

**10-108 HEIGHT, AREA, AND BULK REGULATIONS**

In the "RP-2" Planned Medium Density Residential District, the height of buildings, the minimum dimensions of lots and yards, and the minimum lot area per family permitted on any lot shall be as follows:

1. **Height:** Buildings or structures shall not exceed 35 feet and/or 2-1/2 stories in height.
2. **Front Yard:** The depth of the front yard shall be at least 30 feet.
3. **Side Yard:** There shall be a side yard on each side of a dwelling. No side yard shall be less than 5 feet.
4. **Rear Yard:** The depth of the rear yard shall be at least 20 feet.
5. **Lot Dimensions:** The minimum width of a lot shall be 40 feet. The minimum depth of a lot shall be 100 feet.
6. **Lot Area Per Family:** Every single-family dwelling hereafter erected, constructed, reconstructed, moved or altered, shall provide a minimum lot area of 7,000 square feet per family. Every two-family dwelling hereafter erected, constructed, reconstructed, moved or altered, shall provide a minimum lot area of 3,500 square feet per family or 7,000 square feet per building.

The Height, Area and Bulk Regulations are also set forth in the chart of Article 26. Said chart, and all notations and requirements shown therein, shall have the same force and effect as if all the notations and requirements were fully set forth or described herein.

**10-109 SUPPLEMENTARY HEIGHT, AREA AND BULK REGULATIONS**

The Supplementary Height, Area and Bulk Regulations are contained in Article 27 of these Regulations.

**10-110 SUPPLEMENTARY USE REGULATIONS**

The Supplementary Use Regulations, including permitted Conditional Uses and Accessory Uses, are contained in Article 28 of these Regulations.

# ARTICLE 11 "CP-0" PLANNED COMMERCIAL OFFICE DISTRICT REGULATIONS

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## **SECTIONS:**

- 11-101 APPLICATION**
- 11-102 USE REGULATIONS**
- 11-103 PLAN APPROVAL GUIDELINES**
- 11-104 PERFORMANCE STANDARDS**
- 11-105 PARKING REGULATIONS**
- 11-106 OFF-STREET LOADING REGULATIONS**
- 11-107 SIGN REGULATIONS**
- 11-108 HEIGHT, AREA AND BULK REGULATIONS**
- 11-109 SUPPLEMENTARY HEIGHT, AREA AND BULK REGULATIONS**
- 11-110 SUPPLEMENTARY USE REGULATIONS**

### **11-101 APPLICATION**

The regulations set forth in this Article, or set forth elsewhere in these Regulations when referred to in this Article, are the regulations in the "CP-O" Planned Commercial Office District. The provisions of this district shall apply within the cities of Bison, LaCrosse, Liebenthal, McCracken, Otis, Rush Center and Timken as specified within these Regulations.

The purpose of this District is to provide for office and non-retail business developments that provide a service or support a neighborhood or the community. This District is intended to be used to transition, where deemed appropriate, from residential developments to more intensive types of commercial and/or retail business activity.

### **11-102 USE REGULATIONS**

In District "CP-O," no building, structure, land or premises shall be used and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, except for one or more of the following uses:

1. Medical clinics, including supporting laboratories and accessory drug stores, pharmacies and optical shops.
2. Offices and office buildings for the administrative functions of companies, corporations, social or philanthropic organizations or societies, or for professional activities including, but not limited to:
  - Accountants
  - Architects
  - Consultants
  - Doctors
  - Engineers
  - Insurance
  - Lawyers
  - Photographic studios.
4. Radio and television studios, provided no broadcast towers are located on the premises.

## ARTICLE 11 "CP-0" PLANNED COMMERCIAL OFFICE DISTRICT REGULATIONS

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5. Savings and loan institutions, credit union offices, and banks, including drive-through facilities.
6. Railroad right-of-ways, including a strip of land with tracks and auxiliary facilities for track operations, but not including passenger stations, freight terminals, switching and classifications yards, repair shops, roundhouses, powerhouses, interlocking towers, and fueling, sanding, and watering stations.

### **11-103 PLAN APPROVAL GUIDELINES**

The Plan Approval Guidelines for permitted uses are contained in Article 21 of these Regulations.

### **11-104 PERFORMANCE STANDARDS**

The Performance Standards for permitted uses are contained in Article 22 of these Regulations.

### **11-105 PARKING REGULATIONS**

The Parking Regulations for permitted uses are contained in Article 23 of these Regulations.

### **11-106 OFF-STREET LOADING REGULATIONS**

The Off-Street Loading Regulations for permitted uses are contained in Article 24 of these Regulations.

### **11-107 SIGN REGULATIONS**

The Sign Regulations are contained in Article 25 of these Regulations.

### **11-108 HEIGHT, AREA AND BULK REGULATIONS**

In the "CP-O" Planned Commercial Office District, the height of buildings, the minimum dimensions of lots and yards, and the minimum lot area on any lot shall be as follows:

1. **Height:** Buildings or structures shall not exceed 30 feet and/or 2 stories in height.
2. **Front Yard:** The depth of the front yard shall be at least 30 feet.
3. **Side Yard:** There shall be a side yard on each side of a building. No side yard shall be less than 10 feet.
4. **Rear Yard:** The depth of the rear yard shall be at least 20 feet.
5. **Lot Dimensions:** The minimum width of a lot shall be at least 65 feet. The minimum depth of a lot shall be at least 100 feet.
6. **Lot Area:** Every building hereafter erected, constructed, reconstructed, moved or altered shall provide a minimum lot area of 7,000 square feet.

## **ARTICLE 11 “CP-0” PLANNED COMMERCIAL OFFICE DISTRICT REGULATIONS**

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The Height, Area and Bulk Regulations are also set forth in the chart of Article 26. Said chart, and all notations and requirements shown therein, shall have the same force and effect as if all the notations and requirements were fully set forth or described herein.

### **11-109 SUPPLEMENTARY HEIGHT, AREA AND BULK REGULATIONS**

The Supplementary Height, Area and Bulk Regulations are contained in Article 27 of these Regulations.

### **11-110 SUPPLEMENTARY USE REGULATIONS**

The Supplementary Use Regulations, including permitted Conditional Uses and Accessory Uses, are contained in Article 28 of these Regulations.

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**SECTIONS:**

- 12-101 APPLICATION**
- 12-102 USE REGULATIONS**
- 12-103 PLAN APPROVAL GUIDELINES**
- 12-104 PERFORMANCE STANDARDS**
- 12-105 PARKING REGULATIONS**
- 12-106 OFF-STREET LOADING REGULATIONS**
- 12-107 SIGN REGULATIONS**
- 12-108 HEIGHT, AREA AND BULK REGULATIONS**
- 12-109 SUPPLEMENTARY HEIGHT, AREA AND BULK REGULATIONS**
- 12-110 SUPPLEMENTARY USE REGULATIONS**

**12-101 APPLICATION**

The regulations set forth in this Article, or set forth elsewhere in these Regulations when referred to in this Article, are the regulations in the "CP-1" Planned General Commercial District. The provisions of this district shall apply within the cities of Bison, LaCrosse, Liebenthal, McCracken, Otis, Rush Center and Timken as specified within these Regulations.

The purpose of this District is to provide sufficient space in appropriate locations for most commercial and service activities.

**12-102 USE REGULATIONS**

In District "CP-1", no building, structure, land or premises shall be used and no building or structure shall be hereafter erected constructed, reconstructed, moved or altered, except for one or more of the following uses:

1. Any use permitted in the "CP-0" Planned Commercial Office District.
2. Auditorium or theater, but no open-air drive-in theaters.
3. Bowling alleys and amusement arcades.
4. Drive-in and drive-through establishments, except as otherwise prohibited herein.
5. Food storage lockers.
6. Hotels, motels, and motor hotels.
7. Lawn and garden supply sales and service, including storage yards.
8. Membership clubs, including private clubs as defined by K.S.A. 41-2601 et seq, and subsequent amendments.
9. Printing, publishing, and engraving firms, including newspaper publishing; provided said operations are principally retail businesses.



10. Reupholstering.
11. Warehousing, not exceeding 20,000 square feet in any single building.
12. All other commercial or retail stores and activities not otherwise prohibited or restricted by these Regulations, including but not limited to, the following:
  - Antique shop
  - Appliance store and/or repair shops
  - Art school, gallery or museum
  - Auto supply store
  - Building materials sales
  - Car wash
  - Catering establishment
  - Clothing and apparel store
  - Curio or gift shop
  - Department store
  - Drinking establishment
  - Dry goods store
  - Dyeing and cleaning works
  - Furniture store
  - General service and repair establishment
  - Grocery store or supermarket
  - Hardware store
  - Lumber yard
  - Meat market, including processing facilities
  - Motor vehicle sales, service and/or repair
  - Painting and/or decorating shop
  - Parking lots operated as a business
  - Plumbing and heating shop
  - Radio and television sales and/or service
  - Restaurant
  - Sewing machines sales, service and/or instruction
  - Sporting goods sales
  - Taverns
  - Tire sales and service including vulcanizing, but not manufacture
  - Toy store
  - Used car sales
  - Variety store

**12-103 PLAN APPROVAL GUIDELINES**

The Plan Approval Guidelines for permitted uses are contained in Article 21 of these Regulations.

**12-104 PERFORMANCE STANDARDS**

The Performance Standards for permitted uses are contained in Article 22 of these Regulations.

**12-105 PARKING REGULATIONS**

The Parking Regulations for permitted uses are contained in Article 23 of these Regulations.

**12-106 OFF-STREET LOADING REGULATIONS**

The Off-Street Loading Regulations for permitted uses are contained in Article 24 of these Regulations.

**12-107 SIGN REGULATIONS**

The Sign Regulations are contained in Article 25 of these Regulations.

**12-108 HEIGHT, AREA AND BULK REGULATIONS**

In the "CP-1" Planned General Commercial District, the height of buildings, the minimum dimensions of lots and yards, and the minimum lot area on any lot shall be as follows:

1. **Height:** Buildings or structures shall not exceed 35 feet and/or 3 stories in height.
2. **Front Yard:** The depth of the front yard shall be at least 30 feet.
3. **Side Yard:** There shall be a side yard on each side of a building. No side yard shall be less than 10 feet.
4. **Rear Yard:** The depth of the rear yard shall be at least 20 feet.
5. **Lot Dimensions:** The minimum width of a lot shall be 65 feet. The minimum depth of a lot shall be 100 feet.
6. **Lot Area:** Every building hereafter erected, constructed, reconstructed, moved or altered shall provide a minimum lot area of 7,000 square feet.

The Height, Area and Bulk Regulations are also set forth in the chart of Article 26. Said chart, and all notations and requirements shown therein, shall have the same force and effect as if all the notations and requirements were fully set forth or described herein.

**12-109 SUPPLEMENTARY HEIGHT, AREA AND BULK REGULATIONS**

The Supplementary Height, Area and Bulk Regulations are contained in Article 27 of these Regulations.

**12-110 SUPPLEMENTARY USE REGULATIONS**

The Supplementary Use Regulations, including permitted Conditional Uses and Accessory Uses, are contained in Article 28 of these Regulations.

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**SECTIONS:****13-101 APPLICATION****13-102 USE REGULATIONS****13-103 PLAN APPROVAL GUIDELINES****13-104 PERFORMANCE STANDARDS****13-105 PARKING REGULATIONS****13-106 OFF-STREET LOADING REGULATIONS****13-107 SIGN REGULATIONS****13-108 HEIGHT, AREA AND BULK REGULATIONS****13-109 SUPPLEMENTARY HEIGHT, AREA AND BULK REGULATIONS****13-110 SUPPLEMENTARY USE REGULATIONS****13-101 APPLICATION**

The regulations set forth in this Article, or set forth elsewhere in these Regulations when referred to in this Article, are the regulations in the "CP-2" Planned Highway Service Commercial District. The provisions of this district shall apply within the cities of Bison, LaCrosse, Liebenthal, McCracken, Otis, Rush Center and Timken as specified within these Regulations.

The purpose of this District is to provide space in appropriate locations, particularly along the existing major highways, for those uses of a more intensive nature that are clearly commercial in nature, which do not necessarily demand public utility services such as water and sewers, and which often require more land area to function efficiently.

**13-102 USE REGULATIONS**

In District "CP-2", no building, structure, land or premises shall be used and no building or structure shall be hereafter erected constructed, reconstructed, moved or altered, except for one or more of the following uses or similar uses requiring supporting services:

1. New and/or used motor vehicle sales and service, including associated repair services; but not motor vehicle repair services exclusively.
2. Boat sales and service, including storage yard.
3. Farm machinery sales and service, including storage yard.
4. Manufactured home and trailer sales and service, including display yard.

**13-103 PLAN APPROVAL GUIDELINES**

The Plan Approval Guidelines for permitted uses are contained in Article 21 of these Regulations.

**13-104 PERFORMANCE STANDARDS**

The Performance Standards for permitted uses are contained in Article 22 of these Regulations.

**13-105 PARKING REGULATIONS**

The Parking Regulations for permitted uses are contained in Article 23 of these Regulations.

**13-106 OFF-STREET LOADING REGULATIONS**

The Off-Street Loading Regulations for permitted uses are contained in Article 24 of these Regulations.

**13-107 SIGN REGULATIONS**

The Sign Regulations are contained in Article 25 of these Regulations.

**13-108 HEIGHT, AREA AND BULK REGULATIONS**

In the "C-2" Highway Service Commercial District, the height of buildings, the minimum dimensions of lots and yards, and the minimum lot area on any lot shall be as follows:

1. **Height:** Buildings or structures shall not exceed 35 feet and/or 3 stories in height.
2. **Front Yard:** The depth of the front yard shall be at least 30 feet.
3. **Side Yard:** There shall be a side yard on each side of a building. No side yard shall be less than 20 feet.
4. **Rear Yard:** The depth of the rear yard shall be at least 20 feet.
5. **Lot Dimensions:** The minimum width of a lot shall be 150 feet. The minimum depth of a lot shall be 150 feet.
6. **Lot Area:** Every building hereafter erected, constructed, reconstructed, moved or altered shall provide a minimum lot area of 25,000 square feet.

The Height, Area and Bulk Regulations are also set forth in the chart of Article 26. Said chart, and all notations and requirements shown therein, shall have the same force and effect as if all the notations and requirements were fully set forth or described herein.

**13-109 SUPPLEMENTARY HEIGHT, AREA AND BULK REGULATIONS**

The Supplementary Height, Area and Bulk Regulations are contained in Article 27 of these Regulations.

**13-110 SUPPLEMENTARY USE REGULATIONS**

The Supplementary Use Regulations, including permitted Conditional Uses and Accessory Uses, are contained in Article 28 of these Regulations.

**SECTIONS:****14-101 APPLICATION****14-102 USE REGULATIONS****14-103 PLAN APPROVAL GUIDELINES****14-104 PERFORMANCE STANDARDS****14-105 PARKING REGULATIONS****14-106 OFF-STREET LOADING REGULATIONS****14-107 SIGN REGULATIONS****14-108 HEIGHT, AREA AND BULK REGULATIONS****14-109 SUPPLEMENTARY HEIGHT, AREA AND BULK REGULATIONS****14-110 SUPPLEMENTARY USE REGULATIONS****14-101 APPLICATION**

The regulations set forth in this Article, or set forth elsewhere in these Regulations when referred to in this Article, are the regulations in the "CP-3" Planned Central Business District. The provisions of this district shall apply within the cities of Bison, LaCrosse, Liebenthal, McCracken, Otis, Rush Center and Timken as specified within these Regulations.

This District encompasses the shopping and office core of the central business district of the city only. Appropriate uses are the same as for the "CP-1" Planned General Commercial District, but with altered off-street parking and off-street loading requirements in recognition of the practical difficulty of providing off-street parking and loading spaces in the core district, and in recognition of the collective responsibility to provide other parking and loading for the district.

**14-102 USE REGULATIONS**

In District "CP-3", no building, structure, land or premises shall be used and no building or structure shall be hereafter erected constructed, reconstructed, moved or altered, except for one or more of the following uses:

1. Any use permitted in the "CP-1" Planned General Commercial District.
2. Residential uses.

**14-103 PLAN APPROVAL GUIDELINES**

The Plan Approval Guidelines for permitted uses are contained in Article 21 of these Regulations.

**14-104 PERFORMANCE STANDARDS**

The Performance Standards for permitted uses are contained in Article 22 of these Regulations.

**14-105 PARKING REGULATIONS**

None required.

**14-106 OFF-STREET LOADING REGULATIONS**

None required.

**14-107 SIGN REGULATIONS**

The Sign Regulations are contained in Article 25 of these Regulations.

**14-108 HEIGHT, AREA AND BULK REGULATIONS**

None required.

**14-109 SUPPLEMENTARY HEIGHT, AREA AND BULK REGULATIONS**

The Supplementary Height, Area and Bulk Regulations are contained in Article 27 of these Regulations.

**14-110 SUPPLEMENTARY USE REGULATIONS**

The Supplementary Use Regulations, including permitted Conditional Uses and Accessory Uses, are contained in Article 28 of these Regulations.

**SECTIONS:**

- 15-101 APPLICATION**
- 15-102 USE REGULATIONS**
- 15-103 PLAN APPROVAL GUIDELINES**
- 15-104 PERFORMANCE STANDARDS**
- 15-105 PARKING REGULATIONS**
- 15-106 OFF-STREET LOADING REGULATIONS**
- 15-107 SIGN REGULATIONS**
- 15-108 HEIGHT, AREA AND BULK REGULATIONS**
- 15-109 SUPPLEMENTARY HEIGHT, AREA AND BULK REGULATIONS**
- 15-110 SUPPLEMENTARY USE REGULATIONS**

**15-101 APPLICATION**

The regulations set forth in this Article, or set forth elsewhere in these Regulations when referred to in this Article, are the regulations in the "IP-1" Planned Light Industrial District. The provisions of this district shall apply within the cities of Bison, LaCrosse, Liebenthal, McCracken, Otis, Rush Center and Timken as specified within these Regulations.

This District is for locations intended primarily for light manufacturing, fabricating, warehousing, and wholesale distributing in low buildings with off-street loading and off-street parking for employees, and with access by major streets and/or railroads. This district is intended to be established mainly as an Industrial Park and not for use on individual lots or tracts.

**15-102 USE REGULATIONS**

In District "IP-1," no building, structure, land or premises shall be used and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, except for one or more of the following uses:

1. Manufacturing, processing, fabrication and assembling of any commodity except junk or salvage and except the uses enumerated as permitted in District "I-2".
2. Warehousing, wholesaling and storage of any commodity except junk or salvage and except the uses enumerated as permitted in District "I-2".
3. Dwellings for resident night watchmen and caretakers employed on the premises.
4. Laboratories, research, experimental, or testing.
5. Offices and office buildings.
6. Restaurants and automatic food and beverage vending machines.



7. Railroad right-of-ways, including a strip of land with tracks and auxiliary facilities for track operations, but not including passenger stations, freight terminals, switching and classifications yards, repair shops, roundhouses, powerhouses, interlocking towers, and fueling, sanding, and watering stations.

**15-103 PLAN APPROVAL GUIDELINES**

The Plan Approval Guidelines for permitted uses are contained in Article 21 of these Regulations.

**15-104 PERFORMANCE STANDARDS**

The Performance Standards for permitted uses are contained in Article 22 of these Regulations.

**15-105 PARKING REGULATIONS**

The Parking Regulations for permitted uses are contained in Article 23 of these Regulations.

**15-106 OFF-STREET LOADING REGULATIONS**

The Off-Street Loading Regulations for permitted uses are contained in Article 24 of these Regulations.

**15-107 SIGN REGULATIONS**

The Sign Regulations are contained in Article 25 of these Regulations.

**15-108 HEIGHT, AREA AND BULK REGULATIONS**

In the "IP-1" Planned Light Industrial District, the height of buildings, the minimum dimensions of lots and yards, and the minimum lot area of any lot shall be as follows:

1. Height: Buildings and structures shall not exceed 30 feet and/or 2 stories in height.
2. Front Yard: The depth of the front yard shall be at least 40 feet.
3. Side Yard: There shall be a side yard on each side of a building. No side yard shall be less than 15 feet.
4. Rear Yard: The depth of the rear yard shall be at least 20 feet.
5. Lot Dimensions: None.
6. Lot Area: None.

The Height, Area and Bulk Regulations are also set forth in the chart of Article 26. Said chart, and all notations and requirements shown therein, shall have the same force and effect as if all the notations and requirements were fully set forth or described herein.

**15-109 SUPPLEMENTARY HEIGHT, AREA AND BULK REGULATIONS**

The Supplementary Height, Area and Bulk Regulations are contained in Article 27 of these Regulations.

**15-110 SUPPLEMENTARY USE REGULATIONS**

The Supplementary Use Regulations, including permitted Conditional Uses and Accessory Uses, are contained in Article 28 of these Regulations.

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**SECTIONS:****16-101 APPLICATION****16-102 USE REGULATIONS****16-103 PLAN APPROVAL GUIDELINES****16-104 PERFORMANCE STANDARDS****16-105 PARKING REGULATIONS****16-106 OFF-STREET LOADING REGULATIONS****16-107 SIGN REGULATIONS****16-108 HEIGHT, AREA AND BULK REGULATIONS****16-109 SUPPLEMENTARY HEIGHT, AREA AND BULK REGULATIONS****16-110 SUPPLEMENTARY USE REGULATIONS****16-101 APPLICATION**

The regulations set forth in this Article, or set forth elsewhere in these Regulations when referred to in this Article, are the regulations in the "IP-2" Planned Medium Industrial District. The provisions of this district shall apply within the cities of Bison, LaCrosse, Liebenthal, McCracken, Otis, Rush Center and Timken as specified within these Regulations.

This District provides for industrial operations that are more intensive in nature and, as a result, require more consideration in siting, and greater access to major facilities and services such as highways, railroads, utilities, etc.

**16-102 USE REGULATIONS**

In District "IP-2," no building, structure, land or premises shall be used and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, except for one or more of the following uses:

1. Any use permitted in "IP-1" Light Industrial District.
2. Book or publishing plants.
3. Bus barns or lots.
4. Cold storage and ice plants.
5. Creameries and dairy product processing.
6. Food and beverage products, canning and preserving, processing and packaging of products.
7. Furniture refinishing.
8. Industrial machinery sales and service.
9. Machine shops.
10. Metal fabrication.

11. Physical processing of chemicals, (i.e., mixing), but not including processing involving chemical reactions.
12. Plastic extrusion.

**16-103 PLAN APPROVAL GUIDELINES**

The Plan Approval Guidelines for permitted uses are contained in Article 21 of these Regulations.

**16-104 PERFORMANCE STANDARDS**

The Performance Standards for permitted uses are contained in Article 22 of these Regulations.

**16-105 PARKING REGULATIONS**

The Parking Regulations for permitted uses are contained in Article 23 of these Regulations.

**16-106 OFF-STREET LOADING REGULATIONS**

The Off-Street Loading Regulations for permitted uses are contained in Article 24 of these Regulations.

**16-107 SIGN REGULATIONS**

The Sign Regulations are contained in Article 25 of these Regulations.

**16-108 HEIGHT, AREA AND BULK REGULATIONS**

In the "IP-2" Planned Medium Industrial District, the height of buildings, the minimum dimensions of lots and yards, and the minimum lot area of any lot shall be as follows:

1. **Height:** Buildings or structures shall not exceed 30 feet and/or 2 stories in height.
2. **Front Yard:** The depth of the front yard shall be at least 40 feet.
3. **Side Yard:** There shall be a side yard on each side of a building. No side yard shall be less than 15 feet.
4. **Rear Yard:** The depth of the rear yard shall be at least 25 feet.
5. **Lot Dimensions:** None.
6. **Lot Area:** None.

The Height, Area and Bulk Regulations are also set forth in the chart of Article 26. Said chart, and all notations and requirements shown therein, shall have the same force and effect as if all the notations and requirements were fully set forth or described herein.

**16-109 SUPPLEMENTARY HEIGHT, AREA AND BULK REGULATIONS**

The Supplementary Height, Area and Bulk Regulations are contained in Article 27 of these Regulations.

**16-110 SUPPLEMENTARY USE REGULATIONS**

The Supplementary Use Regulations, including permitted Conditional Uses and Accessory Uses, are contained in Article 28 of these Regulations.

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**SECTIONS:**

- 17-101 APPLICATION**
- 17-102 USE REGULATIONS**
- 17-103 PLAN APPROVAL GUIDELINES**
- 17-104 PERFORMANCE STANDARDS**
- 17-105 PARKING REGULATIONS**
- 17-106 OFF-STREET LOADING REGULATIONS**
- 17-107 SIGN REGULATIONS**
- 17-108 HEIGHT, AREA AND BULK REGULATIONS**

**17-101 APPLICATION**

The regulations set forth in this Article, or set forth elsewhere in these Regulations when referred to in this Article, are the regulations in the "PUD" Planned Unit Development District. The "PUD" Planned Unit Development District is a special purpose zoning district that is intended to encourage innovative land planning and design and avoid the monotony sometimes associated with large developments by:

1. Reducing or eliminating the inflexibility that sometimes results from strict application of zoning standards that were designed primarily for individual lots.
2. Allowing greater freedom in selecting the means to provide access, light, open space and design amenities.
3. Promoting quality urban design and environmental sensitive development by allowing development to take advantage of special site characteristics, locations and land uses.
4. Allowing deviations from certain zoning standards that would otherwise apply if not contrary to the general spirit and intent of these Regulations.

**17-102 USE REGULATIONS**

Any use may be permitted within the "PUD" Planned Unit Development District, provided that it is consistent with the purposes of these Regulations and consistent with the approved Development Plan of the "PUD".

**17-103 PLAN APPROVAL GUIDELINES**

The Plan Approval Guidelines, including site plan submission and content requirements, are contained in Article 21 of these Regulations.

**17-104 PERFORMANCE STANDARDS**

The Performance Standards are contained in Article 22 of these Regulations.

**17-105 PARKING REGULATIONS**

The parking requirements shall follow the Development Plan approved as part of the establishment of the "PUD" as specified within these Regulations.



**17-106 OFF-STREET LOADING REGULATIONS**

The off-street loading requirements shall follow the Development Plan approved as part of the establishment of the "PUD" as specified within these Regulations.

**17-107 SIGN REGULATIONS**

The sign requirements shall follow the Development Plan approved as part of the establishment of the "PUD" as specified within these Regulations.

**17-108 HEIGHT, AREA AND BULK REGULATIONS**

In the "PUD" Planned Unit Development District, the height of buildings, the minimum dimensions of lots and yards, and the minimum lot area on any lot shall follow the Development Plan approved as part of the establishment of the "PUD" as specified within these Regulations.

**SECTIONS:**

- 18-101 PURPOSE**
- 18-102 FINDINGS OF FACT**
- 18-103 GENERAL PROVISIONS**
- 18-104 BUILDING OR LAND USE PERMIT**
- 18-105 ESTABLISHMENT OF ZONING DISTRICTS**
- 18-106 STANDARDS FOR THE FLOODPLAIN OVERLAY DISTRICTS**
- 18-107 FLOODWAY OVERLAY DISTRICT**
- 18-108 FLOODWAY FRINGE OVERLAY DISTRICT**
- 18-109 CERTIFICATION OF FLOODPROOFING**
- 18-110 NONCONFORMING USE AND RESTORATION**
- 18-111 VARIANCES AND VARIANCE PROCEDURES**
- 18-112 PENALTIES FOR VIOLATION**
- 18-113 DEFINITIONS**

**18-101 PURPOSE**

It is the purpose of this Article to promote the public health, safety and general welfare and to minimize those losses described in Section 18-102 by applying provisions designed to:

1. Restrict or prohibit uses which are dangerous to health, safety, or property in times of flooding or cause increased flood height beyond 1 foot rise in the 100-year surface elevation or cause increases in water velocities.
2. Require that uses vulnerable to floods, including public facilities which service such uses, be provided with flood protection at the time of initial construction.
3. Provide public information for evaluating land purchases of flood prone ground within the Rush County and the cities of Bison, LaCrosse, Liebenthal, McCracken, Otis, Rush Center and Timken, Kansas, and its extraterritorial jurisdiction.
4. Assure that eligibility is maintained for property owners in Rush County and the cities of Bison, LaCrosse, Liebenthal, McCracken, Otis, Rush Center and Timken, Kansas, and its extraterritorial jurisdiction to purchase flood insurance in the Federal Flood Insurance Program.

**18-102 FINDINGS OF FACT**

The flood hazard areas of the within the unincorporated portion of Rush County and the cities of Bison, LaCrosse, Liebenthal, McCracken, Otis, Rush Center and Timken, Kansas, are subject to inundation, which could result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

1. These flood losses are caused by:

- A. The cumulative effect of obstruction in floodways, causing increases in flood heights and velocities.
  - B. The occupancy of flood hazard areas by uses vulnerable to floods or hazardous to others and which are inadequately elevated or otherwise protected from flood damages.
2. This Article uses a reasonable method of analyzing flood hazards which consists of a series of inter-related steps, as follows:
    - A. Selection of a regulatory flood which is based upon engineering calculations which permit a consideration of such flood factors as its expected frequency of occurrence, the area inundated, and the depth of inundation. The regulatory flood selected for these Regulations is representative of large floods which are reasonably characteristic of what can be expected to occur on the particular streams subject to these Regulations. It is in the general order of a flood which could be expected to have a one percent (1%) chance of occurrence in any one year, as delineated on the Federal Insurance Administration's Flood Insurance Study, and illustrative materials, as officially published and amended by the Federal Emergency Management Agency.
    - B. Calculation of water surface profiles based upon a hydraulic engineering analysis of the capacity of the stream channel and overbank areas to convey the regulatory flood.
    - C. Computation of the floodway required to convey this flood without increasing flood heights more than one (1) foot at any point.
    - D. Delineation of floodway encroachment lines within which no obstruction is permitted which would cause any increase in flood height.
    - E. Delineation of floodway fringe, i.e., that area outside the floodway encroachment lines but which still is subject to inundation by the regulatory flood.

### **18-103 GENERAL PROVISIONS**

1. **LAND TO WHICH REGULATIONS APPLY:** This Article shall apply to all lands within the unincorporated portion of Rush County and within the corporate limits of Bison, LaCrosse, Liebenthal, McCracken, Otis, Rush Center and Timken, Kansas, that are identified on the Flood Insurance Rate Maps (FIRM) as numbered and unnumbered A Zones, and within the Zoning Overlay Districts "FW" and "FF" established in Section 18-105 herein. In all areas covered by this Article, no development shall be permitted except upon a permit granted by the Zoning Administrator under the provisions established in Section 18-106 of this Article.
2. **THE ENFORCEMENT OFFICER:** The Zoning Administrator of Rush County and the cities of Bison, LaCrosse, Liebenthal, McCracken, Otis, Rush Center and Timken, Kansas, is designated as the enforcement officer.

3. **RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES:** The boundaries of the Floodway and Floodway Fringe Overlay Districts shall be determined by scaling distances on the floodplain maps. Where interpretation is needed to the exact location of the boundaries of the districts as shown on the floodplain maps, as, for example, where there appears to be a conflict between a mapped boundary and actual field conditions, the Zoning Administrator shall make the necessary interpretation. In such cases where the interpretation is contested, the Board of Zoning Appeals will resolve the dispute. The regulatory flood elevation for the point in question shall be the governing factor in locating the district boundary on the land. The person contesting the location of the district boundary shall be given a reasonable opportunity to present his case to the Zoning Administrator and/or Board of Zoning Appeals and to submit his own technical evidence, if he so desires.
4. **COMPLIANCE:** No structure or land shall hereafter be used and no structure shall be located, extended, converted or structurally altered without full compliance with the terms of this Article and other applicable regulations, except as established under Section 18-109.
5. **ABROGATION AND GREATER RESTRICTIONS:** It is not intended by this Article to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this Article imposes greater restrictions, the provisions of this Article shall prevail. All other regulations inconsistent with this Article are hereby repealed to the extent of the inconsistency only, except as established under Section 18-109.
6. **INTERPRETATION:** The provisions of this Article shall be held to be minimum requirements and shall not be deemed a limitation or repeal of any other powers granted by state statute.
7. **WARNING AND DISCLAIMER OF LIABILITY:** The degree of flood protection required by this Article is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur on rare occasions or the flood height may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This Article does not imply that areas outside boundaries or land uses permitted within such districts will be free from flooding or flood damages. This Article shall not create liability on the part of Rush County or the cities of within the cities of Bison, LaCrosse, Liebenthal, McCracken, Otis, Rush Center and Timken, or any officer or employee thereof for any flood damages that may result from reliance on this Article or any administrative decision lawfully made thereunder.
8. **ADOPTION OF STUDIES:** Any Flood Insurance Study and the accompanying Flood Boundary and Floodway Maps, and the Flood Insurance Rate Maps applicable to Rush County or the cities of within the cities of Bison, LaCrosse, Liebenthal, McCracken, Otis, Rush Center and Timken are hereby adopted and are incorporated by reference in this Article.

#### **18-104 BUILDING OR LAND USE PERMIT**

1. **PERMIT REQUIRED:** No person, firm or corporation shall initiate any development or cause the same to be done without first obtaining a separate permit as required in this Article.

2. **APPLICATION FOR A PERMIT:** To obtain a permit, the applicant shall first file an application in writing on a form furnished for that purpose. Every application shall:
- A. Identify and describe the work to be covered by the permit for which application is made.
  - B. Describe the land on which the proposed work is to be done by legal description and house address, or similar description that will readily identify and definitely locate the proposed building or work.
  - C. Indicate the use or occupancy for which the proposed work is intended.
  - D. Be accompanied by plans and specifications for the proposed construction.
  - E. Be signed by the permittee or his authorized agent who may be required to submit evidence to indicate such authority.
  - F. Within designated floodprone areas, be accompanied by elevations of the lowest floor including basement or, in the case of floodproofed nonresidential structures, the elevation to which it has been floodproofed. Documentation or certification of such elevations will be maintained by the Zoning Administrator.
  - G. Give such additional information as may be required by the Zoning Administrator, such as:
    - 1) Typical valley cross-sections and profile showing the channel of the stream, elevation of land areas adjoining each side of the channel, cross-sectional areas to be affected by the proposed development, and the elevation of the 100-year flood.
    - 2) Plans depicting:
      - surface view, showing elevations or contours of the ground;
      - pertinent structure, fill or storage elevations; size, location and spatial arrangement of all proposed and existing structures on the site;
      - location and elevations of streets, water supply, sanitary facilities, and other data that will assist the Zoning Administrator to make a determination of flooding.

The Zoning Administrator shall review all permit applications to determine if the site of the proposed development meets the provisions of this Article and that all necessary permits have been received as required by federal or state law.

**18-105 ESTABLISHMENT OF ZONING DISTRICTS**

The mapped floodplain areas within the jurisdiction of this Article are hereby divided into the two following districts: a Floodway Overlay District "FW", and a Floodway Fringe Overlay District "FF" identified in the Flood Insurance Study (Flood Boundary and Floodway Maps). Within these districts all uses not meeting the standards of this Article and those standards of underlying zoning districts shall be prohibited. These zones shall be consistent with the numbered and unnumbered A Zones as identified on the official FIRM and identified in the Flood Insurance Study provided by the Federal Insurance Administration.

**18-106 STANDARDS FOR THE FLOODPLAIN OVERLAY DISTRICTS**

1. **COMPLIANCE REQUIRED:** No permit shall be granted for new construction, substantial improvements and other improvements, including the placement of manufactured homes, within all numbered and unnumbered A Zones unless the conditions of this Article are satisfied.
2. **UNDESIGNATED AREAS COMPLY:** All areas identified as unnumbered A Zones on the FIRM are subject to inundation of the 100-year flood; however, the water surface elevation was not provided. The unnumbered A Zones shall be subject to all development provisions of this Article. If Flood Insurance Study data is not available, the City shall utilize any base flood elevation or floodway data currently available from Federal, State or other sources.
3. **STANDARDS:** New construction, substantial improvements, subdivision proposals, prefabricated buildings, placement of manufactured homes and other developments shall require:
  - A. Design or anchorage to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
  - B. New or replacement water supply systems and/or sanitary sewage systems be designed to eliminate or minimize infiltration of flood waters into the systems and discharges from the systems into flood waters, and on-site waste disposal systems be located so as to avoid impairment of them or contamination from beyond applicable environmental control limits during flooding.
  - C. Construction materials and utility equipment that are resistant to flood damage and use construction methods and practices that will minimize flood damage, consistent with economic practicability.
  - D. All utility and sanitary facilities shall be floodproofed up to the regulatory flood protection elevation so that any space below the regulatory flood protection elevation is water tight, with walls substantially impermeable to the passage of water, with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

- E. That until a floodway has been designated, no development, including landfill, may be permitted within Zones A1-30 and AE on the FIRM unless the applicant for the land use has demonstrated that the proposed use, when combined with all other existing and reasonably anticipated uses, will not increase the water surface elevation of the 100-year flood more than 1 foot on the average cross section of the reach in which the development or landfill is located as shown on the Flood Insurance Rate Study incorporated by reference in Section 18-103.
- F. Any grading changes within the area estimated to be inundated by the 100-year frequency flood, or alterations, modifications or relocations of a watercourse within the jurisdiction of the Division of Water Resources, State Board of Agriculture rules and regulations, as authorized by K.S.A. 74-2611, and any subsequent revisions thereof, shall ensure that the water carrying capacity is maintained. The plans for such changes, modifications, alterations or relocations shall be submitted to and approved by the Division of Water Resources, State Board of Agriculture, concurrent with County or City approval. In addition, the County or City shall notify, in riverine situations, adjacent communities prior to the performance of the work and submit copies of such notification to the local office of the Administrator of the Federal Insurance Administration.
- G. Storage of Material and Equipment:
- H. The storage or processing of materials that are, in time of flooding, buoyant, flammable, explosive, or could be injurious to human, animal or plant life is prohibited.
- I. Storage of other material or equipment may be allowed if not subject to major damage by floods and firmly anchored to prevent flotation or if readily removable from the area within the time available after flood warning.
- J. Subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, be required to assure that:
- 1) All such proposals are consistent with the need to minimize flood damage.
  - 2) All public utilities and facilities, such as sewer, gas, electrical, telephone and water systems are located, elevated and constructed to minimize or eliminate flood damage.
  - 3) Adequate drainage is provided so as to reduce exposure to flood hazards.
  - 4) All proposals for development, including new subdivisions, manufactured home parks and subdivisions, include within such proposals the regulatory flood elevation.

**18-107 FLOODWAY OVERLAY DISTRICT "FW"**

**PERMITTED USES:** Only uses having a low flood damage potential and not obstructing flood flows shall be permitted within the Floodway Overlay District to the extent they are not prohibited by any other provision of these Regulations, and provided they do not require structures or storage of materials or equipment. No use shall increase the flood level of the regulatory flood protection elevation. Permitted uses shall meet the standards established in Section 18-106. Subject to the requirements of these Regulations, the following uses are permitted:

1. Agricultural uses.
2. Nonbuilding residential accessory uses such as lawns, gardens, parking, play and yard areas.
3. Nonresidential uses such as loading areas, parking, landing strips.
4. Public and private recreational uses such as golf courses, archery ranges, picnic grounds, parks, wildlife and nature preserves.
5. Placement of manufactured homes is prohibited in the floodway, except in existing manufactured home parks and existing manufactured home subdivisions. Placement of mobile homes is prohibited by these Regulations.

**18-108 FLOODWAY FRINGE OVERLAY DISTRICT "FF"**

1. **PERMITTED USES:** Any use permitted in Section 18-107 shall be permitted in the Floodway Fringe Overlay District. No use shall be permitted in the district unless the standards of Section 18-106 are met.
2. **Standards for the Floodway Fringe Overlay District:**
  - A. Require new construction or substantial improvements of residential structures to have the lowest floor, including basement, elevated to at least one (1) foot above the base flood elevation.
  - B. Require new construction or substantial improvements of nonresidential structures to have the lowest floor, including basement, elevated to at least one (1) foot above the base flood elevation or, together with attendant utility and sanitary facilities, to be floodproofed so that below such a level the structure is water tight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the Zoning Administrator.



- C. Require for all new construction or substantial improvements that fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following criteria:
- 1) A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area.
  - 2) The bottom of all openings shall be no higher than one (1) foot above grade.
  - 3) Openings may be equipped with screens, louvers, valves, or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.
  - 4) Within AH zones, adequate drainage paths around structures on slopes shall be required in order to guide floodwaters around and away from proposed structures.
3. **Manufactured Homes:**
- A. All manufactured homes shall be anchored to resist flotation, collapse, or lateral movement. Manufactured homes must be anchored in accordance with manufacturers recommended anchoring requirements, local building codes or FEMA guidelines. In the event that over-the-top frame ties to ground anchors are used, the following specific requirements (or their equivalent) shall be met:
- 1) Over-the-top ties be provided at each of the four corners of the manufactured home, with two additional ties per side at intermediate locations, and manufactured homes less than 50 feet long requiring one additional tie per side.
  - 2) Frame ties be provided at each corner of the home with five additional ties per side at intermediate points, and manufactured homes less than 50 feet long requiring four additional ties per side.
  - 3) All components of the anchoring system be capable of carrying a force of 4,800 pounds.
  - 4) Any additions to the manufactured home be similarly anchored.

### **18-109 CERTIFICATION OF FLOODPROOFING**

For the floodproofing of nonresidential structures, applicants shall provide certification by a licensed professional engineer or architect that the floodproofing plans are adequate to be watertight, with walls impermeable to the passage of water and can withstand the hydrostatic and hydrodynamic forces associated with the 100-year flood. In addition, the applicant shall provide information identifying the specific elevation in relation to mean sea level to which such structures are floodproofed. This information shall be submitted to the Zoning Administrator at the time a permit is requested and shall be maintained by that official.

**18-110 NONCONFORMING USE AND RESTORATION**

In addition to the requirements established in Article 28, the following requirements shall apply:

1. A structure or use of a structure or premises which was lawful before the passage of these Regulations, but which is not in conformity with the provisions of these Regulations, may be continued subject to the following conditions:
  - A. No such use or substantial improvement of that use shall be expanded, changed, enlarged or altered in any way which increases its nonconformity.
  - B. If such use is discontinued for six months or more, any future use of the building, structure or premises shall conform to the provisions established in these Regulations, provided this regulation shall not prevent the occupancy of a residential unit following a period of vacancy.
  - C. If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than 50 percent of its fair market value before the damage occurred, unless it is reconstructed in conformity with the provisions and standards established in these Regulations. This limitation does not include the cost of any alteration to comply with existing state or local health codes, sanitary, building or safety codes or regulations, or the costs of any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

**18-111 VARIANCES AND VARIANCE PROCEDURES**

The Board of Zoning Appeals shall hear and decide appeals and requests for variances from the requirements of this Article. All requests for appeals and variances shall follow the procedures established in Article 30.

1. **VARIANCES FOR HISTORIC PLACES:** Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this section.
2. **ADDITIONAL CONDITIONS FOR VARIANCES:** In addition to the conditions established in Article 30, the Board of Zoning Appeals, in passing upon variance applications, shall consider all technical evaluations, all relevant factors, standards specified in the sections of this Article, and:
  - A. The danger that materials may be swept onto other lands to the injury of others.
  - B. The danger to life and property due to flooding or erosion damage.
  - C. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
  - D. The importance of the services provided by the proposed facility to the community.

- E. The necessity to the facility of a waterfront location, where applicable.
- F. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use.
- G. The compatibility of the proposed use with existing and anticipated development.
- H. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area.
- I. The safety of access to the property in times of flood for ordinary and emergency vehicles.
- J. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site.
- K. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.
- L. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- M. Variances shall only be issued upon:
  - 1) A showing of good and sufficient cause, and that the need for the variance is not self-created.
  - 2) A determination that failure to grant the variance would result in exceptional hardship to the applicant.
  - 3) A determination that the granting of a variance will not result in increased flood heights, additional public expense, create nuisances, cause fraud or victimization of the public, or conflict with existing local laws or regulations.

Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

Upon consideration of the factors listed above and the purpose of this Article, the Board of Zoning Appeals may attach such conditions to the granting of variances as it deems necessary to further the purpose of this Article.

3. **Reporting of Variances:**
  - A. Any applicant to whom a variance is granted shall be given a written notice containing the following information: That the structure will be permitted to be built with a lowest floor elevation \_\_\_\_\_ feet below the regulatory flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
  - B. The Zoning Administrator shall maintain the records of all appeal actions and report all variances to the Federal Insurance Administration at the time the annual report is submitted.

#### **18-112 PENALTIES FOR VIOLATION**

Penalties shall be as established in Article 34 of these Regulations.

#### **18-113 DEFINITIONS**

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

1. **ACTUARIAL OR RISK PREMIUM RATES:** Those rates established by the Administrator pursuant to individual community studies and investigations which are undertaken to provide flood insurance in accordance with Section 1307 of the Act, and the accepted actuarial principles. "Risk premium rates" include provisions for operating costs and allowances.
2. **APPEAL:** A request for a review of the Zoning Administrator's interpretation of any provision of this Article or a request for a variance.
3. **AREA OF SHALLOW FLOODING:** A designated AO or AH zone on a community's Flood Insurance Rate Maps (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.
4. **AREA OF SPECIAL FLOOD HAZARD:** The land in the floodplain within a community subject to one percent or greater chance of flooding in any given year.
5. **BASE FLOOD:** The flood having one percent chance of being equaled or exceeded in any given year.
6. **BASEMENT:** Any area of the building having its floor subgrade (below ground level) on all sides.
7. **DEVELOPMENT:** Any man-made change to improved or unimproved real estate, including but limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage or equipment or materials.

8. **EXISTING CONSTRUCTION:** For the purposes of determining rates, structures for which the "start construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRM's effective before that date. "Existing construction" may also be referred to as "existing structures".
9. **EXISTING MANUFACTURED HOME PARK OR SUBDIVISION:** A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactures homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of these Regulations.
10. **EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION:** The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).
11. **FLOOD OR FLOODING:** A general and temporary rise in stream flow or stage that results in water overlapping its banks and inundating areas adjacent to the channel, or an unusual and rapid accumulation of runoff of surface waters from any source.
12. **FLOOD ELEVATION DETERMINATION:** A determination of the water surface elevations of the 100-year flood; that is, the level of flooding that has a one percent chance of occurrence in any given year.
13. **FLOOD INSURANCE RATE MAPS (FIRM):** Official maps of Rush County and the cities of within the cities of Bison, LaCrosse, Liebenthal, McCracken, Otis, Rush Center and Timken, Kansas, on which the Flood Insurance Study has delineated the Flood Hazard Boundaries and the zones establishing insurance rates applicable to Rush County and the cities of within the cities of Bison, LaCrosse, Liebenthal, McCracken, Otis, Rush Center and Timken, Kansas.
14. **FLOOD INSURANCE STUDY (FIS):** The official report provided by the Federal Insurance Administration that contains flood profiles and water surface elevations for various flood frequencies, as well as the boundaries and water surface elevations of the 100-year flood.
15. **FLOODPLAIN MANAGEMENT:** The operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to, emergency preparedness plans, flood control works and floodplain management regulations.
16. **FLOOD PROTECTION SYSTEM:** Those physical structural works constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to a "special flood hazard." Such a system typically includes levees or dikes. These specialized modifying works are those constructed in conformance with sound federal engineering standards.
18. **FLOODPROOFING:** Any combination of structural and nonstructural additions, changes or adjustments to structures, including utility and sanitary facilities which would preclude the

entry of water. Structural components shall have the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

18. **FLOODWAY OR REGULATORY FLOODWAY:** The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.
19. **FLOODWAY FRINGE:** That area of the floodplain, outside of the floodway, that on the average is likely to be flooded once every 100 years (i.e., that has a one percent chance of flood occurrence in any one year).
20. **FREEBOARD:** A factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, clogged bridge openings, and the hydrological effect of urbanization of the watershed.
21. **HIGHEST ADJACENT GRADE:** The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
22. **HISTORIC STRUCTURE:** Any structure that is:
  - A. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
  - B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
  - C. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
  - D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been either:
    - 1) by an approved state program as determined by the Secretary of the Interior, or
    - 2) directly by the Secretary of the Interior in states without approved programs.

23. **LOWEST FLOOR:** The lowest floor of the lowest enclosed area including basement. An unfinished or flood resistant enclosure, usable only for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this Article.
24. **MANUFACTURED HOME:** A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. This definition shall apply to the requirements of this Article only and shall not have a bearing on any other requirements of these Regulations.
25. **MANUFACTURED HOME PARK OR SUBDIVISION:** A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
26. **NEW CONSTRUCTION:** For the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of the FIRM and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of these Regulations and includes any subsequent improvements to such structures.
27. **NEW MANUFACTURED HOME PARK OR SUBDIVISION:** A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either the final site grading or the pouring of concrete pads) is completed on or after the effective date of these Regulations.
28. **ONE HUNDRED (100) YEAR FLOOD:** The base flood having a 1 percent chance of annual occurrence.
29. **OVERLAY DISTRICT:** A district which acts in conjunction with the underlying zoning district or districts. The original zoning district designation does not change.
30. **REGULATORY FLOOD ELEVATION:** An elevation 1 foot higher than the water surface elevation of the regulatory flood.
31. **START OF CONSTRUCTION (INCLUDING SUBSTANTIAL IMPROVEMENTS):** The date the building permit, or other authorization granted by the City, was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within 90 days of the permit or authorization date. The actual start means the first placement of permanent construction of a structure on a site such as the pouring of the slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it

include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings such as garages, sheds or agricultural accessory buildings not occupied as dwelling units or not part of the main building or structure.

32. **STRUCTURE:** A walled and roofed structure, including a gas or liquid storage tank, that is principally above the ground, including but not limited to, buildings, factories, sheds, cabins, manufactured homes, and other similar uses.
33. **SUBSTANTIAL DAMAGE:** Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.
34. **SUBSTANTIAL IMPROVEMENT:** Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:
- A. any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or,
  - B. any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure".

For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

35. **VARIANCE:** A grant of relief to a person from the requirements of this Article which permits construction in a manner otherwise prohibited by this Article where specific enforcement would result in unnecessary hardship.



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**SECTIONS:****19-101 PURPOSE****19-102 FINDINGS OF FACT****19-103 GENERAL PROVISIONS****19-104 ESTABLISHMENT OF ZONING DISTRICT****19-105 PERMITTED USES****19-106 PERMIT REQUIRED****19-101 PURPOSE**

Certain areas of Rush County below Floodwater Retarding Dams (hereinafter referred to as FRD) would be subject to substantial flooding should a FRD breach occur. This could result in significant losses due to:

1. the cumulative effect of obstructions in the FRD breach impact area district causing increases in flood heights and velocities; and,
2. the occupancy of FRD breach impact area district by uses vulnerable to floods or hazardous to others which are inadequately elevated or otherwise protected from damage.

The FRD breach impact district is designed to permit the gainful use of certain lands which are considered to be in the path of potential flood waters and from which structures and other valuable property use that is subject to damage by flood water should be regulated. This would permit surface runoff through such areas in the event of a FRD breach with a minimum of structural damage or property loss, and a minimum of obligation upon governmental authorities for flood or disaster assistance.

As such, this Article is intended to promote the public health, safety, and general welfare and to minimize these losses by applying the provisions of this Article to the designated areas within Rush County. And by taking action to:

1. restrict or prohibit uses which are dangerous to health, safety, or property in the FRD breach impact area, or which might cause undue increase in flood heights; and,
2. protect individuals from buying lands for the purpose of building in the FRD breach impact area which is unsuited for intended purposes because of flood hazard.

**19-102 FINDINGS OF FACT**

1. The FRD breach impact area district of Rush County, Kansas, are subject to inundation which, in the event of a FRD breach, could result in potential loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood relief, and impairment of the tax base; all of which adversely affect the public health, safety and general welfare.
2. Such flood losses are caused by:

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- a. the cumulative effect of obstructions in FRD breach impact areas causing increases in flood heights and velocities.
  - b. the occupancy of FRD breach impact areas by uses vulnerable to floods or hazardous to others, and which are inadequately elevated or otherwise protected from flood damage.
3. This Article uses a reasonable method of analyzing FRD breach impact flood hazards which consists of a series of interrelated steps, as follows:
    - a. the use of engineering calculations and breach impact studies which indicate the area and potential depth of inundation for each FRD; and,
    - b. computation of floodway required to convey the breach flood waters without increasing flood heights more than one (1) foot at any point; and,
    - c. delineation of breach impact area encroachment lines within which no obstruction is permitted which would cause any increase in flood heights.

**19-103 GENERAL PROVISIONS**

1. **Land to which Regulations Apply:** This Article shall apply to all lands within the unincorporated portion of Rush County, and within the cities of Bison, LaCrosse, Liebenthal, McCracken, Otis, Rush Center and Timken, Kansas, identified on the Floodwater Retarding Dam Maps as elaborated by the official Professional Retarding Dam Impact Studies. No development shall be permitted in any defined FRD breach impact area except as authorized herein.
2. **The Enforcement Officer:** The Zoning Administrator of Rush County, Kansas, is designated as the enforcement officer.
3. **Rules for Interpretation of District Boundaries:** The boundaries of the FRD breach impact area district shall be determined by scaling distances on the engineering Breach Impact Studies. The Enforcement Officer shall make all interpretations as to the exact location of said boundaries. In such cases where the interpretation is contested, the Board of Zoning Appeals will resolve the dispute.
4. **Existing Development:** No development or structures presently located within a known FRD breach impact area shall be relocated, extended, converted or structurally altered.
5. **Abrogation and Greater Restrictions:** It is not intended by this Article to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this Article imposes greater restrictions, the provisions of this Article shall prevail. All other regulations inconsistent with this Article are hereby repealed to the extent of the inconsistency only.

6. **Interpretation:** In their interpretation and application, the provisions of this Article shall be held to be minimum requirements and shall be liberally construed in favor of the Governing Body, Rush County and the cities of Bison, LaCrosse, Liebenthal, McCracken, Otis, Rush Center and Timken, Kansas.
7. **Warning and Disclaimer of Liability:** The degree of flood protection required by this Article is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. In the event of a FRD breach, larger floods may occur on rare occasions or the flood height be increased by man-made or natural causes. This Article does not imply that areas outside boundaries of the FRD breach impact area or land uses permitted within such districts will be free from flooding or flood damages. This Article shall not create liability on the part of Rush County or the cities of Bison, LaCrosse, Liebenthal, McCracken, Otis, Rush Center and Timken, Kansas, or any officer or employee thereof for any flood damages that may result from reliance on this Article or any administrative decision lawfully made thereunder.
8. **Appeal:** Where a request for a permit to develop, build, locate, extend, convert or structurally alter any structure or building is denied by the Enforcement Officer, the applicant may appeal such decision and apply for relief to the Board of Zoning Appeals in the method provided in these Regulations for appeals.

#### **19-104 ESTABLISHMENT OF ZONING DISTRICT**

The mapped FRD breach impact areas within the jurisdiction of this Article are hereby established as a Floodwater Retarding Dam Breach Impact Overlay District "FRD", identified on the Floodwater Retarding Dam Maps and as elaborated by the official Professional Engineering Breach Impact Studies. Within this district all uses not meeting the standards of this Article and those standards of underlying zoning districts shall be prohibited.

#### **19-105 PERMITTED USES**

Only uses having a low flood damage potential and not obstructing flood flows shall be permitted within the Floodwater Retarding Dam Breach Impact Overlay District, to the extent they are not prohibited by any other provision of these Regulations, and provided they do not require structures or storage of materials or equipment. Subject to the requirements of these Regulations, the following uses are permitted:

1. Agricultural uses.
2. Nonbuilding residential accessory uses such as lawns, gardens, parking, play and yard areas.
3. Nonresidential uses such as loading areas, parking and landing strips.
4. Public and private recreational uses such as golf courses, archery ranges, picnic grounds, parks, wildlife and nature preserves.

**19-106 PERMIT REQUIRED**

No person, firm or corporation shall initiate any development or cause the same to be done without first obtaining a permit as required by these Regulations.

**SECTIONS:**

- 20-101 PURPOSE**
- 20-102 DEFINITIONS**
- 20-103 ESTABLISHMENT OF AIRPORT ZONES**
- 20-104 AIRPORT ZONE HEIGHT LIMITATIONS**
- 20-105 USE RESTRICTIONS**
- 20-106 PLAN APPROVAL GUIDELINES**
- 20-107 NONCONFORMING USES**
- 20-108 PERMITS**
- 20-109 ENFORCEMENT**
- 20-110 CONFLICTING REGULATIONS**

**20-101 APPLICATION**

The regulations set forth in this Article, or set forth elsewhere in these Regulations when referred to in this Article, are the regulations in the "AO" Airport Overlay District. The Airport Overlay District is designed to establish an airport zone surrounding Rush County Airport and to protect those using the airport from hazards that might be erected or constructed on surrounding properties. To this end, the District establishes additional restrictions on uses of property that may be more strict than those of the underlying district. When this occurs, the more strict requirements apply.

**20-102 DEFINITIONS**

As used in this Article, unless the context otherwise requires, the following words or phrases shall have the meanings herein defined:

1. **AIRPORT:** Rush County Airport.
2. **AIRPORT ELEVATION:** An elevation of 2068.5 feet above mean sea level for Rush County Airport.
3. **AIRPORT HAZARD:** Any structure, tree, or use of land which obstructs the airspace required for the flight of aircraft in landing and taking off at any airport, or is otherwise hazardous to such landing or taking off of aircraft.
4. **APPROACH SURFACE:** A surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface and at the same slope as the approach zone height limitation slope set forth in Section 20-104 hereof. The perimeter of the approach surface coincides with the perimeter of the approach zone.
5. **APPROACH, TRANSITIONAL, HORIZONTAL, AND CONICAL ZONES:** The zones established in this Article.
6. **CONICAL SURFACE:** A surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 to 1 for a horizontal distance of 4,000 feet.

7. **HAZARD TO AIR NAVIGATION:** An obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.
8. **HEIGHT:** For the purpose of determining the height limits in all zones set forth in this Article and shown on the Airport Zoning Maps, the datum shall be mean sea level elevation unless otherwise specified.
9. **HORIZONTAL SURFACE:** A horizontal plane 150 feet above the established airport elevation, the perimeter of which coincides with the perimeter of the horizontal zone.
10. **LARGER THAN UTILITY RUNWAY:** A runway that is constructed for and intended to be used by propeller-driven aircraft of greater than 12,500 pounds maximum gross weight, and jet-powered aircraft.
11. **NONCONFORMING USE:** Any pre-existing structure, object of natural growth, or use of land which is inconsistent with the provisions of this Article, or any amendment thereto.
12. **NONPRECISION INSTRUMENT RUNWAY:** A runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area-type navigation equipment, for which a straight-in nonprecision instrument approach procedure has been approved or planned.
13. **OBSTRUCTION:** Any structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth in Section 20-104 hereof.
14. **PERSON:** Any individual, firm, copartnership, company, association, joint stock association, or government entity, and includes any trustee, receiver, assignee, or other similar representative thereof.
15. **PRECISION INSTRUMENT RUNWAY:** A runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS) or a Precision Approach Radar (PAR). It also means a runway for which a precision approach system is planned and is so indicated on an approved airport layout plan or any other planning document.
16. **PRIMARY SURFACE:** A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway. The width of the primary surface is set forth in Section 20-103 hereof. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.
17. **RUNWAY:** A defined area on an airport prepared for landing and taking off of aircraft along its length.
18. **STRUCTURE:** Any object, including a mobile object, constructed or installed by man, including, but without limitation, buildings, towers, tanks, cranes, smokestacks, earth formation, and overhead transmission lines.

19. **TRANSITIONAL SURFACES:** These surfaces extend outward at 90 degree angles to the runway centerline and the runway centerline extended at a slope of 7 feet horizontally for each 1 foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces. Transitional surfaces for those portions of the precision approach surfaces, which project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured horizontally from the edge of the approach surface and at 90 degree angles to the extended runway centerline.
20. **TREE:** Any object of natural growth.
21. **UTILITY RUNWAY:** A runway that is constructed for and intended to be used by propeller-driven aircraft of 12,500 pounds maximum gross weight and less.
22. **VISUAL RUNWAY:** A runway intended solely for the operation of aircraft using visual approach procedures.

### **20-103 ESTABLISHMENT OF AIRPORT ZONES**

In order to carry out the provisions of this section, there are hereby created and established certain zones which include all of the land lying beneath the approach surfaces, transitional surfaces, horizontal surfaces, and conical surfaces as they apply to Rush County Airport. Such zones are shown on the Rush County Airport Zoning Maps, which are hereby made a part of these Regulations. An area located in more than one of the following zones is considered to be only in the zone with the more restrictive height limitation. The various zones are hereby established and defined as follows:

1. **Utility Runway Visual Approach Zone:** The inner edge of this approach zone coincides with the width of the primary surface and is 250 feet wide. The approach zone expands outward uniformly to a width of 1,250 feet at a horizontal distance of 5,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway. (This zone applies to Runway 17-35 at Rush County Airport.)
2. **Utility Runway Nonprecision Instrument Approach Zone:** The inner edge of this approach zone coincides with the width of the primary surface and is 500 feet wide. The approach zone expands outward uniformly to a width of 2,000 feet at a horizontal distance of 5,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway. (This zone applies to Runway 17-35 at Rush County Airport.)
3. **Runway Larger than Utility with a Visibility Minimum Greater than 3/4 Mile Nonprecision Instrument Approach Zone:** The inner edge of this approach zone coincides with the width of the primary surface and is 500 feet wide. The approach zone expands outward uniformly to a width of 3,500 feet at a horizontal distance of 10,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway. (This zone does not presently apply to any runways at Rush County Airport.)
4. **Transitional Zones:** The transitional zones are the areas beneath the transitional surfaces.



5. **Horizontal Zone:** The horizontal zone is established by swinging arcs of 5,000 feet radii for all runways designated utility or visual, and 10,000 feet for all others, from the center of each end of the primary surface of each runway and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones.
6. **Conical Zone:** The conical zone is established as the area that commences at the periphery of the horizontal zone and extends outward therefrom a horizontal distance of 4,000 feet.

#### **20-104 AIRPORT ZONE HEIGHT LIMITATIONS**

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

1. **Utility Runway Visual Approach Zone:** Slopes 20 feet outward for each 1 foot upward beginning at the end of, and at the same elevation as, the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.
2. **Utility Runway Nonprecision Instrument Approach Zone:** Slopes 20 feet outward for each 1 foot upward beginning at the end of, and at the same elevation as, the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.
3. **Runway Larger than Utility with a Visibility Minimum Greater than 3/4 Mile Nonprecision Instrument Approach Zone:** Slopes 34 feet outward for each 1 foot upward beginning at the end of, and at the same elevation as, the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline.
4. **Transitional Zones:** Slopes 7 feet outward for each 1 foot upward beginning at the sides of, and at the same elevation as, the primary surface and the approach surface, and extending to a height of 150 feet above the airport elevation. In addition to the foregoing, there are established height limits sloping 7 feet outward for each 1 foot upward beginning at the sides of, and the same elevation as, the approach surface and extending to where they intersect the conical surface or horizontal surface.
5. **Horizontal Zone:** Established at 150 feet above the airport elevation.
6. **Conical Zone:** Slopes 20 feet outward for each 1 foot upward beginning at the periphery of the horizontal zone and at 150 feet above the airport elevation, and extending to a height of 350 feet above the airport elevation.
7. **Excepted Height Limitations:** Except in the Approach Zones, nothing in this Article shall be construed as prohibiting the construction or maintenance of any structure, or growth of any tree, to a height up to 50 feet above the surface of the land.

**20-105 USE RESTRICTIONS**

Notwithstanding any other provisions of this Article, no use may be made of land or water within any zone established by this Article in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards, or otherwise in any way endanger or interfere with the landing, takeoff or maneuvering of aircraft intending to use the airport. No sanitary landfill may be established, operated, or maintained within 2 miles of any airport boundary.

**20-106 PLAN APPROVAL GUIDELINES**

The Plan Approval Guidelines, including site plan submission and content requirements, are contained in Article 21 of these Regulations.

**20-107 NONCONFORMING USES**

1. **Regulations Not Retroactive:** The regulations prescribed in this Article shall not be construed to require the removal, lowering, or other change or alteration of any structure or tree not conforming to the regulations at the effective date of these Regulations, or otherwise interfere with the continuation of a nonconforming use. Nothing contained herein shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of these Regulations and is diligently pursued.
2. **Marking and Lighting:** Notwithstanding the preceding provision of this Article, the owner of any existing nonconforming structure or tree is hereby required to permit the installation, operation, and maintenance thereon of such markers and lights as shall be deemed necessary by the Zoning Administrator to indicate the presence of such airport obstruction. Such markers and lights shall be installed, operated, and maintained at the expense of the airport owner.

**20-108 PERMITS**

1. **Future Uses:** Except as specifically provided in a., b., and c. hereunder, no material change shall be made in the use of land, no structure shall be erected or otherwise established, and no tree shall be planted in any zone herein created unless a permit therefor shall have been applied for and granted. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, structure, or tree would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted. No permit for a use inconsistent with the provisions of this Article shall be granted unless a variance has been approved in accordance with Section 20-107 (4.) hereof.

Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, or alteration of any structure, or growth of any tree in excess of any of the height limits established by this Article, except as set forth in Section 20-104 (4.).

- a. In the area lying within the limits of the horizontal zone and the conical zone, no permit shall be required for any tree or structure less than 75 feet of vertical height above the ground; except when, because of terrain, land contour, or topographical features, such tree or structure would extend above the height limits prescribed for such zones.
  - b. In areas lying within the limits of the approach zones but a horizontal distance of not less than 4,200 feet from each end of the runway, no permit shall be required for any tree or structure less than 75 feet height above the ground; except when such tree or structure would extend above the height limit prescribed for such approach zone.
  - c. In the areas lying within the limits of the transition zones beyond the perimeter of the horizontal zone, no permit shall be required for any tree or structure less than 75 feet of vertical height above the ground; except when such tree or structure, because of terrain, land contour, or topographic features, would extend above the height limit prescribed for such transition zones.
2. **Existing Uses:** No permit shall be granted that would allow the establishment or creation of an obstruction or permit a nonconforming use, structure, or tree to become a greater hazard to air navigation than it was on the effective date of these Regulations or any amendments thereto, or than it is when the application for a permit is made. Except as indicated, all applications for such a permit shall be granted.
  3. **Nonconforming Uses Abandoned or Destroyed:** Whenever the Zoning Administrator determines that a nonconforming tree or structure has been abandoned or more than 50 percent torn down, physically deteriorated, or decayed, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from the Zoning Regulations.
  4. **Variances:** Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use property not in accordance with the regulations prescribed in this Article, may apply to the Board of Zoning Appeals for a variance from such regulations. Each application for variance shall be accompanied by a determination from the Federal Aviation Administration as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace. Such variances shall be allowed where it is duly found that a literal application or enforcement of the regulations will result in unnecessary hardship, and relief granted will not be contrary to the public interest, will not create a hazard to air navigation, will do substantial justice, and will be in accordance with the spirit of this Article. Additionally, no application for variance to the requirements of this Article may be considered by the Board of Zoning Appeals unless a copy of the application has been furnished to the airport owner for advice as to the aeronautical effects of the variance. If the

airport owner does not respond to the application within 30 days after receipt, the Board of Zoning Appeals may act on its own to grant or deny said application.

5. **Obstruction Marking and Lighting:** Any permit or variance granted may, if such action is deemed advisable to effectuate the purpose of this Article and be reasonable in circumstances, be so conditioned as to require the owner of the structure or tree in question to install, operate, and maintain, at the owner's expense, such markings and lights as may be necessary. If deemed proper by the Board of Zoning Appeals and approved by the Governing Body, this condition may be modified to require the owner to permit the Airport owner, at its own expense, to install, operate, and maintain the necessary markings and lights.

**20-109 ENFORCEMENT**

It shall be the duty of the Zoning Administrator to administer and enforce the regulations prescribed in this Article. Applications for permits and variances shall be made to the Zoning Administrator upon a form published for that purpose. Applications required by this Article to be submitted to the Zoning Administrator shall be promptly considered and granted or denied. Application for action by the Board of Zoning Appeals shall be forthwith transmitted by the Zoning Administrator.

**20-110 CONFLICTING REGULATIONS**

Where there exists a conflict between any of the regulations or limitations prescribed in this Article and any other regulations applicable to the same area, whether the conflict be with respect to the height of structures or trees, the use of land, or any other matter, the more stringent limitation or requirement shall govern and prevail.

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**SECTIONS:**

**21-101 PURPOSE**

**21-102 APPLICATION, REVIEW, APPROVAL PROCEDURE**

**21-103 DEVELOPMENT PLAN**

**21-104 DEVELOPMENT PLAN – JOINT PLANNING COMMISSION REVIEW**

**21-105 DEVELOPMENT PLAN - PHASING, TIME RESTRICTIONS**

**21-106 APPEALS OF PLANNING COMMISSION ACTION ON DEVELOPMENT PLAN**

**21-107 REMEDIES FOR NONCOMPLIANCE**

**21-101 PURPOSE**

The procedures and requirements set forth in this Article, or the requirements set forth elsewhere in these Regulations when referred to in this Article, are for the development plans required for Conditional Use Permits designated elsewhere in these Regulations. These requirements are specifically intended to accommodate:

1. The planned, coordinated, and orderly development of properties classified in one of the zoning districts established herein and designated as a “Planned” district.
2. The fully planned, coordinated, and orderly development of relatively large tracts of land into a "PUD" Planned Unit Development.
3. The consideration of an application for a Conditional Use under the provisions of these Regulations.

The requirements and regulations herein prescribed pertaining to height, open space, setbacks, parking, loading, and signs may be adjusted or modified so that the property in question may be developed in a reasonable manner and, at the same time, will not be detrimental to the public welfare and the interests of the community, but in keeping with the general intent and spirit of these Regulations. Such adjustments or modifications may be made as a part of the rezoning or Conditional Use process, or may be allowed after approval by the Rush County Joint Planning Commission upon request of the applicant.

**21-102 APPLICATION, REVIEW, APPROVAL PROCEDURE**

In order to assure that proposed rezonings to a “Planned” district or "PUD" Planned Unit Development and proposed uses requiring Conditional Use permits meet the requirements of these Regulations and will be compatible with surrounding properties and uses, it is hereby required that all applications for a “Planned” district, a "PUD" or a Conditional Use permit include a development plan which must be approved as specified within this Article prior to any construction on the property.

The procedure for approval of a development plan shall consist of the following:

1. Application for a “Planned” district, a "PUD" designating which land uses are to be utilized, or for a Conditional Use permit; and,
2. Submission of a development plan.

The development plan shall be submitted at the time the application is submitted and no application shall be deemed complete nor set for public hearing until said development plan is submitted. No building permit shall be issued for property in a “Planned” district, in a "PUD" Planned Unit Development or for a Conditional Use Permit until the property has been zoned and the development plan for the entire property and/or each phase of development has been approved in accordance with the provisions of these Regulations. Properties classified in a “Planned” zoning district at the time of the initial adoption of these Regulations may change uses or construct additions to existing buildings without the necessity of obtaining development plan approval if the Zoning Administrator deems such improvements are within the spirit and intent of the underlying zoning classification. Any construction for the first time on properties classified in a “Planned” zoning district must have a development plan approved as provided herein prior to any building permit being issued.

### **21-103 DEVELOPMENT PLAN**

Application for a “Planned” district, a "PUD" Planned Unit Development or a Conditional Use and development plan approval shall be made in accordance with the procedures outlined in Article 27 of these Regulations. The application shall include a development plan that describes the applicant's intentions for the use and development of the property. The development plan shall include and/or display the following information:

1. A topographic survey indicating the legal description, property boundary, existing contours, existing utilities and easements, and natural and manmade features of the property.
2. A development plan, drawn to the same scale as the topographic survey, indicating:
  - a. existing contours (shown as dashed lines).
  - b. proposed contours (shown as solid lines)
  - c. location and orientation of all existing and proposed buildings.
  - d. areas to be used for parking, including the number and arrangement of stalls.
  - e. areas to be developed for screening, including the location of plant materials, and screening structures and features.
  - f. pedestrian and vehicular circulation, and their relationship to existing streets, alleys and public right-of-way.
  - g. points of ingress and egress
  - h. location of all existing and proposed utilities (sanitary sewage systems, water systems, storm drainage systems, gas lines, telephone lines and electrical power lines).
  - i. drainage controls (retention or detention ponds).
  - j. location, size and characteristics of identification and business signs.

- k. lighting layout, appurtenances, and intensity of illumination.
  - l. proposed finished floor elevations of all buildings and structures.
3. A statement of intent shall accompany the preliminary development plan to explain the measures used to achieve compatibility of the proposed development with surrounding properties through the planning of the site and the location and design of structures.

**21-104 DEVELOPMENT PLAN – JOINT PLANNING COMMISSION REVIEW**

The Planning Commission shall review the application along with the development plan and shall approve or deny the development plan, or may request modifications to the development plan as deemed necessary to carry out the spirit and intent of these Regulations. Approval by the Rush County Joint Planning Commission shall constitute approval and permanency of the development plan, thereby establishing the criteria for construction of the proposed development.

In the process of reviewing any development plan, the Rush County Joint Planning Commission may provide approval of the development plan conditioned upon certain limitations or restrictions deemed necessary to protect the public interest and surrounding properties, including, if any, the following:

1. Limitations on the type, illumination and appearance of any signs or advertising structures.
2. Direction and location of outdoor lighting.
3. Arrangement and location of off-street parking and off-street loading spaces.
4. The type of paving, landscaping, fencing, screening and other such features.
5. Limitations on structural alterations to existing buildings.
6. Plans for control or elimination of smoke, dust, gas, noise or vibration caused by the proposed use.
7. Waiver of any standards, requirements or depiction of information required by this Article when requested by the applicant and shown to be unnecessary as applied to the specific case in question.
8. Such other conditions and/or limitations that are deemed necessary.

**21-105 DEVELOPMENT PLAN - PHASING, TIME RESTRICTIONS**

The applicant may proceed with construction based on the entire development plan, or may elect to develop the property in phases. The applicant may submit the development plan separately for the first and each successive phase of construction, or for all of the project with a depiction of the phasing sequence; however, all “Planned” districts, “PUD”s and Conditional Uses approved with a development plan shall have construction begun with one (1) year of said approval by the Rush County Joint Planning Commission. The applicant may request a one (1) year extension of this time restriction by submitting a request in writing to the Rush County Joint Planning Commission stating the reasons construction has not begun and at what time construction is expected to begin. If the



Rush County Joint Planning Commission agrees, the one (1) year extension may be granted one time but shall not be granted for any longer period.

The Rush County Joint Planning Commission shall review the development plan and shall act on said plan in a reasonable time period. Upon approval by the Rush County Joint Planning Commission, the development plan shall be filed for record in the office of the Zoning Administrator.

After the development plan has been approved, and when in the course of carrying out the development plan, minor adjustments are requested by the applicant and such adjustments conform to the minimum standards established by the approved development plan for building coverage, parking spaces, points of ingress and/or egress, heights, setbacks and/or other requirements, such adjustments may be made by the Zoning Administrator. If the requested adjustments are deemed by the Zoning Administrator to exceed the minimum standards established by the approved development plan, the revised development plan must be submitted and approved by the Rush County Joint Planning Commission before any further work can proceed. Said revised development plan shall not require another public hearing unless the Rush County Joint Planning Commission determines that the revisions requested are so significant that the public interest will be protected only by conducting a public hearing on said revised development plan. Regardless of whether a public hearing is required or not, at no time shall the Conditional Use previously approved be subject to disapproval. The only issue in said review shall be the requested revisions to the previously approved development plan.

#### **21-106 APPEALS OF PLANNING COMMISSION ACTION ON DEVELOPMENT PLAN**

Any decision of the Rush County Joint Planning Commission regarding development plans may be appealed to the Governing Body, whose decision shall be final. An appeal shall be filed in writing with the Zoning Administrator not later than fifteen (15) days following the date of the Rush County Joint Planning Commission's final action. If no appeal is taken within that time, the decision of the Rush County Joint Planning Commission shall be final. The appeal shall set forth the basis for the appeal and the relief sought by the applicant. The Zoning Administrator shall schedule the appeal before the Governing Body no later than thirty (30) days following the filing of the appeal. The Zoning Administrator shall notify all interested persons in writing of the time and place of the Governing Body's meeting at least ten (10) days prior to said meeting.

#### **21-107 REMEDIES FOR NONCOMPLIANCE**

If the applicant fails to comply with the time requirements herein established, the approved development plan shall be declared null and void and no permit for construction shall be issued until a new development plan has been approved following the procedures previously cited. The "Planned" district, "PUD" or Conditional Use permit shall remain in effect but shall do so without an approved development plan. If the approved development plan is voided, the Rush County Joint Planning Commission or the Governing Body may initiate an action to have the zoning changed to the previous zoning classification, or to have the Conditional Use permit revoked, or may seek some other more restrictive zoning classification by following the procedures outlined in these Regulations.

**SECTIONS:****22-101 PURPOSE****22-102 PERFORMANCE STANDARDS - DISTRICTS "AG", "RR", "SR", "V-1" AND "R-1"****22-103 PERFORMANCE STANDARDS - DISTRICTS "R-1A", "R-1B" AND "R-1C"****22-104 PERFORMANCE STANDARDS - DISTRICTS "RP-2"****22-105 PERFORMANCE STANDARDS - DISTRICTS "CP-0"****22-106 PERFORMANCE STANDARDS - DISTRICTS "CP-1" AND "CP-2"****22-107 PERFORMANCE STANDARDS - DISTRICT "CP-3"****22-108 PERFORMANCE STANDARDS - DISTRICT "IP-1"****22-109 PERFORMANCE STANDARDS - DISTRICTS "IP-2"****22-110 PERFORMANCE STANDARDS - CONDITIONAL USES****22-111 PERFORMANCE STANDARDS - DISTRICT "PUD" PLANNED UNIT DEVELOPMENT****22-101 PURPOSE**

The regulations set forth in this Article, or set forth elsewhere in these Regulations when referred to in this Article, are the performance standards for uses permitted within these Regulations. The standards established herein are intended to provide guidance in the development or redevelopment of property in the area subject to these Regulations for the purpose of encouraging and requiring orderly development at a quality level generally equal to or exceeding that commonly found elsewhere in the community. The standards stated within this Article are the minimum required or maximum permitted, whichever the case may be, for the uses permitted in these Regulations.

**22-102 PERFORMANCE STANDARDS - DISTRICTS "AG", "RR", "SR", "V-1" AND "R-1"**

The following are the performance standards for the "AG" Agricultural District, "RR" Rural Residential District, "SR" Suburban Residential District, "V-1" Village District, and the "R-1" Single-Family Residential District.

1. Where allowed by these Regulations (by right in the "AG" Agricultural District and by accessory use in other districts), agricultural uses are permitted with no restrictions as to operation of such vehicles or machinery as are customarily incidental to such uses, and with no restrictions to the sale or marketing of products raised on the premises. However, there shall be no disposal of garbage, rubbish or offal, other than regular removal, except in compliance with the Rush County Sanitary Code.
2. No main or accessory building or structure shall project beyond the property line. On all major streets and highways within Rush County, no main or accessory building or structure shall project beyond the setback lines established within these Regulations. Nothing shall be allowed to be placed in any public right-of-way without the express permission of the County.
3. Residential real estate sales offices in the "RR" Rural Residential, the "SR" Suburban Residential, the "V-1" Village District, and the "R-1" Single-Family Residential Districts are subject to the following standards:
  - A. There shall be only one residential sales office in any one subdivision.
  - B. All sales shall be limited to the sale of new properties located within that subdivision.

- C. Any sales office within a subdivision shall be located within a permanent residential structure. Mobile homes, and construction trailers shall not be permitted to be used as a residential real estate sales office.
  - D. No additional parking facilities other than adjacent on-street parking or customary driveway parking shall be permitted.
  - E. Upon issuance of any final approval of construction for 90% of the lots within the subdivision, the sales office shall be terminated.
4. In order for residential-design manufactured homes to have substantially the appearance of an on-site, conventionally built, single-family dwelling, the following criteria and standards shall apply:
- A. The pitch of the roof of the manufactured home has a minimum vertical rise of 2.2 inches for each 12 inches of vertical run, and the roof is finished with a type of shingle that is commonly used in standard residential construction.
  - B. All roof structures shall provide an eave projection of no less than one (1) foot, which may include a gutter.
  - C. The exterior siding consists predominantly of vinyl or metal horizontal lap siding (whose reflectivity does not exceed that of gloss white paint), wood, or hardboard, comparable in composition, appearance and durability to the exterior siding commonly used in residential construction.
  - D. The manufactured home is set up in accordance with the recommended installation procedures of the manufacturer and the standards set by the National Conference of States on Building Codes and Standards and published in "Manufactured Home Installations, 1994" (NCS BCS A225.1), and a continuous, permanent masonry foundation or masonry curtain wall, unpierced except for required ventilation and access which may include walk-out basements and garages, is installed under the perimeter of the manufactured home.
  - E. Stairs, porches, entrance platforms, ramps and other means of entrance and exit to and from the manufactured home shall be installed or constructed firmly to the primary structure and anchored securely to the ground.
  - F. The moving hitch, wheels and axles, and transporting lights shall be removed.

**22-103 PERFORMANCE STANDARDS - DISTRICTS "R-1A", "R-1B" AND "R-1C"**

The following are the performance standards for the "R-1A" Single-Family Residential District, "R-1B" Single-Family Residential District and the "R-1C" Single-Family Residential District.

1. No main or accessory building or structure shall project beyond the property line. Nothing shall be placed in public right-of-way within the corporate limits of the cities of Bison, LaCrosse, Liebenthal, McCracken, Otis, Rush Center and Timken without the express permission of said City.
2. Residential real estate sales offices are subject to the following standards:
  - A. There shall be only one residential sales office in any one subdivision.
  - B. All sales shall be limited to the sale of new properties located within that subdivision.
  - C. Any sales office within a subdivision shall be located within a permanent residential structure with a minimum dwelling size equal to or greater than that of the zoning district. Manufactured homes, mobile homes, and construction trailers shall not be permitted.
  - D. No additional parking facilities other than adjacent on-street parking or customary driveway parking shall be permitted.
  - E. Upon issuance of any final approval of construction for 90% of the lots within the subdivision, the sales office shall be terminated.
  - F. A model home complex operated in conjunction with a residential sales office may include a decorative fence in the front yard enclosing or defining the extent of the complex. To qualify as a decorative fence, the surface of the fence must be at least 50 percent open, the fence cannot be constructed of chain link or other wire materials, and the fence cannot exceed 4 feet in height. The front yard fence shall be removed upon the termination of the sales office.
3. Residential-design manufactured homes shall comply with the requirements of the applicable Manufactured Home Code.

**22-104 PERFORMANCE STANDARDS - DISTRICTS "RP-2"**

The following are the performance standards for uses in the "RP-2" Planned Medium Density Residential District.

1. Pedestrian circulation systems (sidewalks, walkways and paths) shall be located and designed to provide separation from automobile traffic along all public and private streets, drives and parking areas.
2. Site drainage patterns shall be designed, graded and constructed to prevent surface drainage from collecting on or flowing across pedestrian paths, walks and sidewalks.
3. The maximum lot coverage shall be sixty percent (60%) for properties zoned "RP-2".

4. A minimum of ten percent (10%) of landscaped open space shall be provided on each site as common or semi-common areas open for use and available to all persons who may reside on the premises.

**22-105 PERFORMANCE STANDARDS - DISTRICTS "CP-0"**

The following are the performance standards for uses in the "CP-0" Planned Commercial Office District.

1. Light sources shall be controlled or hooded so that light is directed away from any adjoining residentially zoned property or public streets.
2. No smoke, radiation, vibration or concussion, or heat shall be produced that is perceptible outside a building, and no dust, fly ash, or gas that is toxic, caustic or obviously injurious to humans or property shall be produced.

**22-106 PERFORMANCE STANDARDS - DISTRICTS "CP-1" AND "CP-2"**

The following are the performance standards for uses in the "CP-1" Planned General Commercial District and the "CP-2" Planned Highway Service Commercial District.

1. Light sources shall be controlled or hooded so that light is directed away from any adjoining residentially zoned property or public streets.
2. No smoke, radiation, vibration or concussion, or heat shall be produced that is perceptible outside a building, and no dust, fly ash, or gas that is toxic, caustic or obviously injurious to humans or property shall be produced.
3. Merchandise which may be appropriately displayed or stored outside a building shall be kept off the public sidewalks and streets, and shall not reduce the capacity of a parking lot below that specified in Article 23 herein. In addition, the outdoor storage or display area shall occupy an area no greater than twenty percent (22%) of the ground floor area of the building. Automobiles and trucks for sale may be stored or displayed outside a building, but must maintain a setback of at least 10 feet from a street right-of-way, or 6 feet from a side or rear lot line.
4. Any manufacturing or assembly of products shall be entirely within a totally enclosed building.

**22-107 PERFORMANCE STANDARDS - DISTRICT "CP-3"**

The following are the performance standards in the "CP-3" Planned Central Business District.

1. Only that property which is designated "CP-3" on the official zoning map shall be subject to the requirements of the "CP-3" Zoning District.
2. Light sources shall be controlled or hooded so that light is directed away from any adjoining residentially zoned property or public streets.

3. No smoke, radiation, vibration or concussion, or heat shall be produced that is perceptible outside a building, and no dust, fly ash, or gas that is toxic, caustic or obviously injurious to humans or property shall be produced.
4. Merchandise which may appropriately be displayed or stored outside a building shall be kept off the public sidewalks and streets, except during special promotional activities and sales approved by the Governing Body with a special event permit.

**22-108 PERFORMANCE STANDARDS - DISTRICT "IP-1"**

The following are the performance standards in the "IP-1" Planned Light Industrial District.

1. Light sources shall be controlled or hooded so that light is directed away from any adjoining residentially zoned property or public streets.
2. No emission of air contaminants from any source within the boundaries of any lot or tract shall exceed emission rates established by the Kansas Secretary of Health and Environment pursuant to K.S.A. 65-3001 et seq., or amendments thereto, and any administrative regulations adopted thereunder.
3. No activity shall be permitted that creates any off-site electrical disturbance.
4. Areas devoted to retail sales of commodities manufactured, processed, fabricated, assembled, warehoused, or stored on the premises shall not exceed ten percent (10%) of the gross floor area of the main use, and in no event shall such areas exceed 5,000 square feet.

**22-109 PERFORMANCE STANDARDS - DISTRICTS "IP-2"**

The following are the performance standards in the "IP-2" Planned Medium Industrial District.

1. Light sources shall be controlled or hooded so that light is directed away from any adjoining residentially zoned property or public streets.
2. No emission of air contaminants from any source within the boundaries of any lot or tract shall exceed emission rates established by the Kansas Secretary of Health and Environment pursuant to K.S.A. 65-3001 et seq., or amendments thereto, and any administrative regulations adopted thereunder.
3. No activity shall be permitted that creates any off-site electrical disturbance.
4. Areas devoted to retail sales of commodities manufactured, processed, fabricated, assembled, warehoused, or stored on the premises shall not exceed ten percent (10%) of the gross floor area of the main use, and in no event shall such areas exceed 5,000 square.

**22-110 PERFORMANCE STANDARDS - CONDITIONAL USES**

The following are the performance standards for Conditional Uses authorized by these Regulations.

1. No smoke, radiation, vibration or concussion, or heat shall be produced that is perceptible outside a building, and no dust, fly ash, or gas that is toxic, caustic or obviously injurious to humans or property shall be produced.
2. Any manufacturing or assembly of products shall be entirely within a totally enclosed building.
3. No emission of air contaminants from any source within the boundaries of any lot or tract shall exceed emission rates established by the Kansas Secretary of Health and Environment pursuant to K.S.A. 65-3001 et seq., or amendments thereto, and any administrative regulations adopted thereunder.
4. No activity shall be permitted that creates any off-site electrical disturbance.
5. Light sources shall be controlled or hooded so that light is directed away from any adjoining residentially zoned property or public streets.

**22-111 PERFORMANCE STANDARDS - DISTRICT "PUD" PLANNED UNIT DEVELOPMENT**

The total number of dwelling units and level of nonresidential development allowed within a "PUD" shall not exceed the level that can be adequately served by public facilities. To provide information on the capacity of streets and other facilities serving a "PUD", Zoning Administrator, Rush County Joint Planning Commission and/or Governing Body may require the applicant to conduct a traffic impact study or other infrastructure capacity analyses to provide information on the proposed development's expected impacts on existing and planned facilities.

**SECTIONS:**

- 23-101 PARKING REQUIREMENTS**
- 23-102 INTERPRETATION OF THE CHART**
- 23-103 JOINT USE AND OFF-SITE FACILITIES**
- 23-104 DESIGN STANDARDS**
- 23-105 PERFORMANCE STANDARDS**

**23-101 PARKING REQUIREMENTS**

When any building or structure is hereafter erected or structurally altered to the extent of increasing the floor area by 50 percent or more, or a building or use is changed or enlarged in floor area, number of employees, number of dwelling units, seating capacity or otherwise, to create a need for an increase of 10 percent or more in the number of existing parking spaces, or any building or structure hereafter erected is converted for the uses listed in Column 1 of the chart below in any zoning district, accessory off-street parking spaces shall be provided as required in Column 2 or Column 3 or as required in subsequent sections of this Article or these Regulations.

Column 1	Column 2	Column 3
USE OR USE CATEGORY	SPACES REQUIRED PER BASIC MEASURING UNIT	ADDITIONAL REQUIREMENTS
One-family and two- family dwellings	2 per dwelling unit	
Apartments	2 per dwelling unit or 1.5 per efficiency unit	
Church, temple or similar place of assembly	1 per 5 seats or bench seat spaces (Seats in main auditorium only)	
College or high school	1 per 5 seats in main auditorium or 8 per classroom whichever is greater	
Elementary or nursery school	1 per 10 seats - main assembly room or 1 per classroom whichever is greater	
Column 1	Column 2	Column 3



<b>USE OR USE CATEGORY</b>	<b>SPACES REQUIRED PER BASIC MEASURING UNIT</b>	<b>ADDITIONAL REQUIREMENTS</b>
Country club or golf club	To be determined by the Planning Commission and Governing Body	
Public library, museum art gallery, or community center	5 per building	Plus 1 additional each 300 sq. ft. of floor area in excess of 1,000 square feet
Private clubs- fraternities, sororities	2 per 3 beds or 1 per active member, whichever is greater	
Sanitarium - nursing or convalescent home – home institution for the aged or similar	1 per 5 patient beds	
Hotel	1 per guest room or suite	1 per 2 employees or staff members per shift
Tourist court - motel motor hotel - motor lodge	1 per sleeping room or suite	1 per 2 employees or staff members per shift
Rooming, boarding, lodging house or group home	2 per 3 beds	
Hospital	1 per 3 patient beds	1 per 2 employees or staff members per shift
Office or office building studio, or clinic	1 per 300 square feet of floor area	3 spaces minimum
Funeral home	1 per 5 seats in auditorium or chapel	

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
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<b>USE OR USE CATEGORY</b>	<b>SPACES REQUIRED PER BASIC MEASURING UNIT</b>	<b>ADDITIONAL REQUIREMENTS</b>
Restaurant, tavern, drinking establishment or other establishment for consumption of food or beverage on the premises	1 per 3 seats or seating capacity	
Retail store or personal service establishment and banks	1 per 200 square feet of floor area	Retail stores over 4,000 sq. ft., 1 per 150 sq. ft. of floor area
Furniture or appliance machinery, equipment, and auto and/or boat sales and service	1 per 300 square feet of floor area	2 spaces minimum store, Auto and/or boat sales & service -10 minimum
Auditorium, theater, gymnasium, stadium, arena or convention hall	1 per 4 seats or seating spaces	
Bowling alley	5 per 1,000 sq. ft. of gross floor area	
Food storage locker	1 per 200 sq. ft. customer service area	
Amusement place, dance hall, skating rink, swimming pool, auditorium, or exhibition hall without fixed seats	1 per 100 sq. ft. of floor area	Does not apply to accessory uses
General service or repair establishment, printing, publishing, plumbing, heating	1 per 300 sq. ft. of floor area	
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>

<b>USE OR USE CATEGORY</b>	<b>SPACES REQUIRED PER BASIC MEASURING UNIT</b>	<b>ADDITIONAL REQUIREMENTS</b>
Manufacturing or industrial establishment, research or testing lab, wholesale warehouse or similar establishment	2 per 1,000 square feet of floor area	

**23-102 INTERPRETATION OF THE CHART:**

1. The use regulations for each District are not affected by arrangement of uses in the chart.
2. The parking requirements in this Article do not limit other requirements in these Regulations for parking contained in the district regulations.
3. The parking requirements in this Article do not limit special requirements which may be imposed in connection with Conditional Uses, Article 28.
4. Floor area, as used in the chart, shall be as defined in Article 1, Definitions.
5. Where fractional spaces result, the parking spaces required shall be construed to be the next highest whole number.
6. The parking spaces required for a use not specifically listed in the chart shall be the same as for a listed use of similar characteristics with similar demands for parking as determined by the Zoning Administrator.
7. In the case of mixed uses (uses with different parking requirements occupying the same building or premises) or in the case of joint use of a building or premises by more than one use having the same parking requirements, the parking spaces required shall equal the sum of the requirements of the various uses computed separately.

**23-103 JOINT USE AND OFF-SITE FACILITIES**

All parking spaces required herein shall be located on the same lot with the building or use served, except that where an increase in the number of spaces is required by a change or enlargement of use or where such spaces are provided collectively or used jointly by two or more buildings or establishments, the required spaces may be located and maintained not to exceed 300 feet from the building served, provided:

1. Up to 50 percent of the parking spaces required for (a) theaters, night clubs or cafes, and up to 100 percent of the parking spaces required for a church auditorium may be provided and used jointly by (b) banks, offices, retail stores, repair shops, service establishments and similar uses not normally open, used or operated during the same hours as those listed in (a); provided, however, that a written agreement is properly executed and filed as specified below.
2. In any case where the required parking spaces are not located on the same lot with the building or use served, or where such spaces are collectively or jointly provided and used, a written agreement thereby assuring their retention for such purposes shall be properly drawn and executed by the parties concerned, approved as to form by the appropriate County or City Attorney and shall be filed with the Zoning Administrator.

**23-104 DESIGN STANDARDS:**

1. An off-street parking space is an area not in a street or alley, being a minimum of 9 feet by 19 feet, exclusive of driveways or access drives, permanently reserved for the temporary storage of one motor vehicle and connected with a street or alley by an all-weather surfaced driveway which affords satisfactory ingress and egress for motor vehicles.
2. Entrances or exits for all parking facilities shall comply with the requirements of the appropriate County or City Engineer.
3. Screening shall be erected along any property line adjacent to or adjoining any single-family residence, two-family residence or multi-family residence to eliminate the passage of light from vehicles. Screening along side yards shall not extend nearer to the street than the front yard setback line.

**23-105 PERFORMANCE STANDARDS:**

1. All off-street parking spaces, and their access drives required for all commercial and industrial uses shall be paved with an asphalt or concrete surface and shall be maintained in good condition and free of all weeds, dust, trash and other debris. Said paving shall be completed before the activity or use can commence. The Rush County Joint Planning Commission may waive the paving requirement at the applicant's request, provided that the applicant can provide sufficient reasons and can show that such action would be in the community's best interest and would be keeping with the spirit and intent of these Regulations.
2. All off-street parking spaces, and their access drives, shall be planned and engineered to assure proper drainage of surface water. If a public storm sewer is available, drainage from such lot or parcel of land shall be conveyed to such sewer in a manner approved by the City. If a storm sewer is not available, positive drainage shall be provided for on such lot or parcel and discharge the same through defined drainage courses. No drainage shall be directed over adjoining lands unless approved by the appropriate County or City Engineer.
3. The Rush County Joint Planning Commission or the Governing Body may require plans to be prepared and presented to assure proper design and construction of any off-street parking spaces and their access drives, if conditions of the site are such that compliance with these requirements may be difficult or may pose a potential problem with adjacent properties, or if the proposed use will include parking needs for buses, tractor-trailer semis, or other such large

vehicles. Additional spaces may be required or reserved to accommodate such vehicles and the Rush County Joint Planning Commission or Governing Body may require that the site plan show the location of such spaces.

4. When located in a residential district, parking shall not be permitted within a front yard setback.
5. If lighting facilities are provided, they shall be so arranged as to deflect or direct light away from any adjacent single-family residence, two-family residence or multi-family residence.
6. Parking areas shall have adequate guards to prevent the extension or the overhanging of vehicles beyond property lines or parking spaces; and parking areas shall be adequately marked with at least two (2) inch wide stripes of traffic paint, for channelization and movement of vehicles.
7. No business shall be conducted on any parking lot except when conducted in compliance with these Regulations.

**SECTIONS:**

**24-101 REQUIREMENTS**

**24-102 INTERPRETATION OF THE CHART**

**24-103 MIXED USES OF ONE BUILDING**

**24-104 DESIGN STANDARDS**

**24-101 REQUIREMENTS**

Except as otherwise provided in these Regulations, when any building or structure is hereafter erected or structurally altered to the extent of increasing floor area by 50 percent or more, or any building is hereafter converted for the uses listed in Column 1 of the chart below, when such buildings contain the floor areas specified in Column 2, accessory off-street loading spaces shall be provided as required in Column 3, or as required in subsequent sections of this Article.

Column 1	Column 2	Column 3
Use or Use Category	Floor Area as Defined in Article 1	Loading Spaces Required in Square Feet
Retail Store,	2,000 - 10,000	One
Department Store	10,000 - 20,000	Two
Restaurant, Wholesale House, Warehouse	20,000 - 40,000	Three
Repair, General	40,000 - 60,000	Four
Service, Manufacturing or Industrial Establishment	Each 50,000 over 60,000	One Additional
Apartment Building	5,000 - 10,000	One
Motel, Offices	10,000 - 100,000	Two
Office Building	100,000 - 200,000	Three
Hospital or Similar Institution, Places of Public Assembly	Each 100,000 over 200,000	One Additional
Funeral Home or Mortuary	2,500 - 4,000	One
	4,000 - 6,000	Two
	Each 10,000 over 6,000	One Additional

**24-102 INTERPRETATION OF THE CHART**

The loading space requirements apply to all Districts. However, the loading space requirements in this Article do not limit special requirements which may be imposed in connection with Conditional Uses, Article 28.

**24-103 MIXED USE OF ONE BUILDING**

Where a building is used for more than one use or for different uses and where the floor area used for each use for which loading space is required is below the minimum for required loading spaces, but the aggregate floor area used is greater than such minimum, then off-street loading space shall be provided as if the entire building were used for that use in the building for which the most spaces are required.

**24-104 DESIGN STANDARDS**

1. Loading spaces shall have minimum dimensions of 12 feet by 35 feet and vertical clearance of at least 14 feet.
2. Loading spaces for a funeral home or mortuary may be reduced in size to 10 feet by 25 feet and vertical clearance reduced to 8 feet.

**SECTIONS:**

- 25-101 SCOPE, OBJECTIVES**
- 25-102 DEFINITIONS**
- 25-103 GENERAL SIGN REQUIREMENTS**
- 25-104 PROCEDURAL REQUIREMENTS**
- 25-105 DESIGN AND CONSTRUCTION STANDARDS**
- 25-106 DISTRICT REGULATIONS**
- 25-107 NONCONFORMING SIGNS**

**25-101 SCOPE, OBJECTIVES**

The provisions of this Article shall govern the placement, use and structural quality of privately owned outdoor signs and other advertising and identification devices together with their appurtenant and auxiliary apparatus. After the effective date of these Regulations, no sign shall be erected, constructed, reconstructed or otherwise altered without first obtaining a separate sign permit. Such sign permit shall be legally issued only when in compliance with the regulations set forth in this Article. The Sign Regulations are found to be necessary and proper to the following objectives:

1. To protect the general public from damage and injury which may be caused by the faulty and unregulated construction of signs.
2. To prevent the obstruction of traffic visibility and confusion with traffic control devices resulting from improperly placed and designed signs.
3. To ensure the visual quality of signs and preserve and promote aesthetic quality in the unincorporated portion of Rush County and the cities of Bison, LaCrosse, Liebenthal, McCracken, Otis, Rush Center and Timken, Kansas.

**25-102 DEFINITIONS**

For the purpose of this Article, certain terms, phrases and words used throughout this Article shall have the meaning assigned them in this section:

1. **GENERAL**
  - A. **ABANDONED SIGN:** Any sign, including off-site signs unless owned and operated by a bona fide billboard company, which no longer directs a potential customer to or exhorts any person, or advertises a bona fide business, project, product, service or activity.
  - B. **FACADE:** The entire exterior surface of a particular side of a structure or establishment to be considered in the calculation of the maximum gross surface area of a wall, roof or projecting sign or signs.
  - C. **INDIRECTLY ILLUMINATED SIGN:** Any sign which is partially or completely illuminated at any time by a light source separate from the sign housing which is so shielded as to not be visible at eye level.



- D. MARQUEE:** A permanent roofed structure attached to and supported by the building and projecting over public property.
- E. OFF-PREMISES SIGN:** A sign delivering a message or advertisement other than the name, occupation or nature of the activities conducted on the premises or the products sold or manufactured thereon, and shall include all billboard signs and political signs with a gross surface area of more than thirty-two (32) square feet.
- F. ON-PREMISES SIGN:** A sign which carries only advertisement that is incidental to a lawful use of the premises on which it is located, including signs or sign devices indicating the business transacted, services rendered, goods sold or produced on the premises, the rental or lease of products or building space, and/or name of the person, firm or corporation occupying the premises.
- G. SEMI-ILLUMINATED SIGN:** Any sign located on a building which building face is uniformly illuminated over its entire area, including the area of the sign, by use of electricity or other artificial light. Semi-illuminated signs shall be permitted in any location where illuminated signs are permitted.
- H. SIGN:** Any advertising device or surface placed out-of-doors, on or off premises, or placed indoors, when in view of the general public, which conveys information or identification. Included in this definition of "sign" shall be any structure used for said display and all sign supports.
- I. SIGN, GROSS SURFACE AREA OF:** The gross surface area of a sign shall be the sum of all surface areas of the sign faces, except that ground or pole signs designed as double-faced signs, with both faces parallel and when the distance between the faces does not exceed two (2) feet, then only one face of the sign shall be considered in determining the sign area. In determining the gross surface area of a sign, each face of a sign may be broken down into not more than three (3) areas. Each surface area shall include the total area within a single continuous perimeter enclosing the extreme limits of the sign elements. Such perimeters need not include any structural elements lying outside the limits of such signs when they do not form an integral part of the display, nor shall it include architectural embellishments when such do not contain any advertising or printed copy, and are not lighted and do not exceed ten percent (10%) of the permitted sign area.
- J. SIGN, HEIGHT:** Sign height shall be measured from ground level at the foundation of the sign to the highest element of the sign.
- K. SIGN AREA, MAXIMUM TOTAL GROSS SURFACE AREA:** Maximum allowed square footage of sign area permitted per zoning lot.
- L. SIGN SETBACK:** The minimum sign setback shall be the horizontal distance between a sign and a front and side lot line, as measured from that part of the sign, including its extremities and supports, nearest to any point on an imaginary vertical plane projecting from the front and side lot line.

- M. SIGN STRUCTURE:** An element or assemblage of elements which supports or is capable of supporting a sign. A sign structure may be free-standing, attached to a building, an integral part of the building, or combination thereof.
- N. STRUCTURAL MEMBER:** A component part of a structural system required to carry the primary supportive stresses of the building to the ground, as opposed to members carrying little or no supportive stresses other than their own weight, and functioning as an in-fill or nonstructural enclosure.
- O. UNIFIED SHOPPING CENTER:** A group of retail stores and/or service establishments designed to serve a community or neighborhood.
- P. VISIBILITY TRIANGLE:** The triangular area formed by the intersecting street right-of-way lines and a straight line joining said street right-of-way lines at points which are thirty (30) feet distant from the point of intersection, measured along said right-of-way lines.

#### CLASSIFICATION OF SIGNS

##### 2. Functional Types of Signs

- A. ADVERTISING SIGN:** A sign which directs the attention of the public to a business, commodity, service or entertainment conducted, sold, or furnished at a location OTHER than the premises on which the sign is located or to which it is affixed.
- B. ADVERTISING DECORATION:** Any sign which has attached various sign materials used for temporary display and decoration, including streamers, banners, pennants, pinwheels, commercial flags, bunting, and similar devices.
- C. BILLBOARD:** An off-site sign, or portion thereof, consisting of outdoor signs which advertise, promote, or otherwise disseminate information pertaining to goods, products, or services, including charitable services, political services or appeals, not related to goods, products, or services which comprise a primary use on the premises where the sign is located. Such signs include:
  - 1) Poster panels or bulletins normally mounted on a building wall or freestanding structure with advertising copy in the form of pasted paper.
  - 2) Multi-prism signs, which are poster panels or bulletins normally mounted on a building wall or freestanding structure with advertising copy in the form of pasted paper and alternating advertising message on the one (1) display area.
  - 3) Painted bulletins, where the advertiser's message is painted directly on the background of a wall-mounted or freestanding display area.

- D. BULLETIN BOARD SIGN:** An on-premises sign containing the name of the institution or organization, which may include names of persons connected with it, announcing persons, events or activities occurring at the institution or organization. Such signs may also present a greeting or similar message.
- E. BUSINESS SIGN:** A sign which directs attention to a business or profession conducted, or to a commodity or service sold, offered or manufactured, or to an entertainment offered on the premises where the sign is located.
- F. CONSTRUCTION SIGN:** A temporary on-site sign indicating the names of architects, engineers, landscape architects, contractors, similar artisans, and financiers involved in the design and construction of a structure or project during the period of construction.
- G. DIRECTIONAL SIGN:** An on-site sign containing words or symbols indicating an entrance to, or exit from, a building as well as the location of parking, loading, restrooms, and emergency entrances which are for the convenience of the public.
- H. FARM/RANCH DIRECTIONAL SIGN:** A sign which provides direction to the headquarters of the farm or ranch.
- I. FIRST AMENDMENT SIGN:** A sign which gives a non-commercial opinion of the sign owner and which is located on the property owned or occupied by the owner of the sign.
- J. IDENTIFICATION SIGN:** A sign giving the name and address of a building, business, development or establishment.
- K. NAMEPLATE SIGN:** A sign giving the name and/or address of the owner or occupant of a building or premises on which it is located, and where applicable, a professional title.
- L. OFFICIAL SIGN:** A sign erected, maintained and owned by a public entity within its own jurisdiction or, for a city or affiliated entity, within three (3) miles of the city limits.
- M. POLITICAL SIGN:** A sign pertaining to the announcement of an individual being a candidate for an elective political office. Any such sign exceeding thirty-two (32) square feet of gross surface area shall be classified as an off-site sign and regulated accordingly.
- N. PROJECT DIRECTORY SIGN:** An on-site sign containing the names and locations, in list or map form, of the individual components making up a planned unit development, shopping center, or similar project.
- O. PROJECT TITLE SIGN:** An on-site sign which carries the overall name of a residential subdivision, shopping center, industrial park, medical complex, planned unit development, mobile home park, and similar projects.

- P. **REAL ESTATE SIGN:** An on-premises sign displayed for the purpose of offering real property for sale, lease or rent.
- Q. **RURAL BUSINESS SIGN:** A sign which provides direction to the location of a business.
- R. **SERVICE SIGN:** A sign which is owned by and displays information on a non-profit, service, charitable and/or religious organization or group.
- S. **SPECIAL SIGN:** Any sign classified as a farm/ranch directional sign, rural business sign and/or a service sign. These signs are permitted only so long as they remaining allowable under the Kansas Highway Advertising Control Act as administered by the Kansas Department of Transportation.
- T. **TEMPORARY SIGN:** Any on-site sign, including, but not limited to, signs of lightweight cardboard, airborne, plastic or paper material, intended to be displayed for not more than sixty (60) days.
3. **Structural Types of Signs.**
- A. **AWNING SIGN:** Any sign affixed directly on, painted on or attached to an awning.
- B. **CANOPY SIGN:** Any sign affixed directly on, painted on or attached to a canopy.
- C. **GROUND SIGN:** A sign placed upon, or supported by, the ground independently of any building or structure on the property. This includes a sign supported on poles or posts, the base of the face which is less than six (6) feet above ground level.
- D. **MARQUEE SIGN:** Any sign mounted on, painted on or supported by a marquee.
- E. **POLE SIGN:** A sign whose base of the face of which is more than six (6) feet above ground level and is supported by poles or posts.
- F. **PORTABLE SIGN:** An on-site sign designed in such a manner to be readily movable and not permanently attached to the property. Any non-permanent sign not classed as a temporary sign shall be deemed to be a portable sign.
- G. **PROJECTING SIGN:** Any sign that is wholly or partially attached to and dependent upon a building for support and which projects more than 1 foot beyond the face of said building.
- H. **ROOF SIGN:** A sign mounted and supported wholly upon or over the roof of any structure.
- I. **WALL SIGN:** A sign attached to or painted on a wall in such a manner that the exposed face of the sign is in a plane approximately parallel to the plane of the wall.

**25-103 GENERAL SIGN REQUIREMENTS**

1. **Traffic Safety:** No sign shall be maintained at any location where it may interfere with the view of, or where it may obstruct view of, or interfere with, mislead or confuse traffic. Nor shall any sign be placed in the visibility triangle as defined in this section, or project into said area unless the bottom edge of the projecting sign is at least twelve (12) feet above the centerline grade of the intersecting streets. Provided, however, that this shall not include signs located in a Central Business District.
2. **Clearance from Electrical Power Lines:** No metal ground sign shall be located within eight (8) feet vertically and eight (8) feet horizontally of electrical wire or conductors in free air carrying more than 48 volts, without regard to whether or not such wires or conductors are insulated or otherwise protected.
3. **Illuminated Signs:** Signs shall be shaded wherever necessary to avoid casting bright light upon property located in any residential district or upon any public street or park.
4. **Spotlights And Floodlights:** It shall be unlawful for any person to have any sign which is wholly or partially illuminated by floodlights or spotlights that interfere with the vision of pedestrian or vehicular traffic.
5. **Flashing or Moving Signs:** No flashing signs, rotating or moving signs, animated signs, signs with moving lights, or signs which create the illusion of movement shall be permitted in any residential district, in any "CP-0" Planned Commercial Office District, "CP-1" Planned General Commercial District, "IP-1" Planned Light Industrial District or "IP-2" Planned Medium Industrial District. A sign whereon the current time and/or temperature is indicated by intermittent lighting shall not be deemed to be a flashing sign if the lighting changes are limited to the numerals indicating the time and/or temperature not more often than fifteen (15) seconds.
6. **Signs Not To Be Located Within Public Right-of-Way:** No sign shall be erected, constructed or maintained within the right-of-way of any street, avenue, highway, alley, or upon public ground within the City or County.
7. **Obstruction to Exit:** No sign shall be erected so as to obstruct any fire escape, required exit, window, or door opening intended as a means of egress.
8. **Obstruction to Ventilation:** No sign shall be erected which interferes with any opening required for ventilation.
9. **Signs on Trees or Utility Poles:** No sign shall be attached to a tree or utility pole whether on public or private property.
10. **Corner and Through Lots:** On corner and through lots, each lot line that abuts a street or highway shall be considered a separate street frontage. On corner and through lots, restrictions that are phrased in terms of "signs per zoning lot" shall be deemed to permit the allowable number of signs facing each street or highway that abuts the lot.

11. **Maintenance Required:** Signs shall be maintained so as to be structurally sound and in a safe condition, and shall be kept in a state of undeteriorated appearance by means of painting, sealing or coating and repair or replacement of damaged parts, panels or lights.

12. **Classification of Signs:**

A. **Functional Types**

- 1) Advertising or Billboard Sign
- 2) Advertising Decoration Sign
- 3) Bulletin Board Sign
- 4) Business Sign
- 5) Construction Sign
- 6) Directional Sign
- 7) Farm/Ranch Directional Sign
- 8) First Amendment Sign
- 9) Identification Sign
- 10) Nameplate Sign
- 11) Official Sign
- 12) Political Sign
- 13) Project Directory Sign
- 14) Project Title Sign
- 15) Real Estate Sign
- 16) Rural Business Sign
- 17) Service Sign
- 18) Temporary Sign

B. **Structural Types:**

- 1) Ground Sign
- 2) Pole Sign
- 3) Portable Sign
- 4) Projecting Sign
- 5) Roof Sign
- 6) Temporary Sign
- 7) Wall Sign

**25-104 PROCEDURAL REQUIREMENTS**

1. **Permit:** No sign, except for signs listed in paragraph 5 of this section, shall be painted, constructed, erected, repainted, remodeled, relocated, or expanded unless such sign complies with the regulations of these Regulations. Permits shall be obtained from the Zoning Administrator. Fees for sign permits shall be as specified by the Governing Body. All signs shall be designed, constructed, erected and electrified in compliance with the adopted minimum standards as set forth in the "Building Code".

2. **Application for Permit:** Application for a permit shall be made in writing upon forms provided by the Zoning Administrator and shall contain, or have attached, the following information:
  - A. The name, address, and telephone number of the applicant.
  - B. The location of the building, structure or lot where the sign is to be located.
  - C. Position of the sign(s) in relation to nearby buildings and structures.
  - D. Two sets of prints showing the plans and specifications of the proposed sign and sign structure, along with the method of construction and attachment to the building or in the ground.
  - E. The name of the person, firm, corporation or association erecting the sign.
  - F. Written consent of the owner of the building, structure or land to which or on which the sign is to be erected.
  - G. Additional information as the Zoning Administrator shall require to show full compliance with this and all other applicable laws and regulations of Rush County and the cities of Bison, LaCrosse, Liebenthal, McCracken, Otis, Rush Center and Timken, Kansas.
  
3. **Issuance of Permit:** Upon the filing of an application for a sign permit, the Zoning Administrator or designate shall examine such plans and specifications, along with the premises upon which it is proposed to erect the sign, and other pertinent data, to determine if the provisions of the Sign Regulations of Rush County and the cities of Bison, LaCrosse, Liebenthal, McCracken, Otis, Rush Center and Timken, Kansas, are complied with. If all such requirements are met, the permit shall be issued. If the work authorized by such permit is not started within 120 days from the date of its issuance, such permit shall become null and void.

The issuance of the Sign Permit as required by these Regulations shall not act in lieu of any other permits or fees required by any other provisions of these Regulations or any other rules or regulations applicable to such sign and its placement.

4. **Permit Revocation:** If the Zoning Administrator shall find that any sign subject to the Sign Regulations is unsafe or insecure; is a menace to the public; has been constructed or erected or is being maintained in violation of the provisions of the Sign Regulations, written notice shall be given to the owner, occupant, or person-in-charge, specifying the problem. If such person fails to remove or alter the sign so as to comply with the provisions of the Sign Regulations within 30 days of such notice, the Zoning Administrator may cause such sign to be removed or altered to comply with these Regulations. When in the opinion of the Zoning Administrator any sign is in such condition as to constitute an immediate hazard requiring immediate action to protect the public, he may erect barricades or cause the sign to be taken down, repaired, shored, or otherwise made safe without delay, and such action may, under such circumstances, be taken without prior notice to or hearing of the owner, agents, leinholders, and occupants.

All abandoned signs and their supports shall be removed within ninety (90) days from the date of abandonment. All signs structurally damaged shall be repaired or removed within ninety (90) days. The Zoning Administrator shall have the authority to grant a time extension not exceeding an additional ninety (90) days for an abandoned, non-damaged sign. If the owner, occupant, or person-in-charge, after due notice, fails or refuses to correct a violation of this Article, the Zoning Administrator shall cause such signs and their supports to be demolished and removed. If such sign cannot be demolished because it is painted on a building or other non-sign structure, such sign shall be painted over or removed by sandblasting.

The cost of the demolition, removal or repair of any sign under the provisions of this Article shall be levied, certified, and collected as a special assessment against the lot or tract of ground upon which the sign was located, which assessment, if not paid when due, shall be certified to the County Clerk for collection with other special assessments.

5. **Exemptions From Permits:** The following signs shall be exempt from paying fees and obtaining a sign permit; however such signs shall be subject to the Sign Regulations. (This exemption shall not be construed as relieving the owner of the sign from the responsibility for its meeting the structural and maintenance requirements as specified in these Regulations):
- A. Real estate sign advertising the sale, rental or lease of the premises on which the sign is displayed, with the following limitations: One (1) unlighted sign per street frontage per listing, provided that a maximum of four (4) real estate signs be permitted on a zoning lot.
  - B. Temporary on-site signs placed in or upon windows of a commercial or industrial building, whether painted or attached.
  - C. Nonelectrical nameplates not exceeding 2 square feet in area.
  - D. Nonelectrical construction signs denoting the architect, engineer or contractor when placed upon work under construction, and not exceeding 32 square feet in area.
  - E. Nonelectrical identification signs.
  - F. Nonelectrical memorial signs or tablets giving names of persons or buildings and date of erection not to exceed twenty-five (25) square feet in size.
  - G. Signs of a duly constituted governmental body, including directional signs for public buildings and uses, traffic or similar regulatory devices, legal notices, warnings at railroad crossings, and other instructional or regulatory signs having to do with health, hazards, parking, swimming, dumping and other similar signs.
  - H. Project title signs for subdivision identification, with the following limitations: The time period shall not exceed two (2) years, however, the Zoning Administrator may grant extensions every six (6) months until the subdivision is seventy percent (70%) developed. Such signs shall be unlighted, neither reflective nor fluorescent, and used solely for the purpose of advertising the subdivision. A permit shall be issued only after the final subdivision plat has been duly recorded. The sign shall be located at or



near entrances to tract sections under construction and not more than two (2) sign structures shall be maintained in any one (1) subdivision less than forty (40) acres in size. For each additional forty (40) acres or major fraction thereof, one (1) additional sign may be erected. The maximum area shall be 128 square feet for each sign. The maximum length of the sign shall be sixteen (16) feet.

- I. Advertising decorations, temporarily displayed during special event periods only, such as grand openings, holidays, carnivals and the like, with a limit of twelve (12) such events and a total time limitation of six (6) weeks within any calendar year for any business or institution.
  - J. Portable signs.
  - K. Auction signs and real estate signs placed along roads and highways advertising auctions and/or property for sale off said roads or highways; provided, said signs shall not be placed more than 30 days prior to said auction or offering for sale and shall be removed within 7 days of the completion of said auction or sale. Said signs shall not be more than 32 square feet in area and shall not be illuminated.
  - L. Political signs, when located on private property with the permission of the owner or tenants, and with the following limitations: Not more than four (4) signs for each street frontage, per zoning lot. Total area of all signs shall not exceed sixty-four (64) square feet per zoning lot. All signs shall be removed within seven (7) days following the election in which the candidate is elected to office or is eliminated from further participation in the election as a candidate.
  - M. Flags or emblems of a government or of a political, civic, philanthropic, educational or religious organization, displayed on private property, but only if the flag or emblem is used solely as an identifying symbol and does not include advertising language.
  - N. Address numerals and other signs required to be maintained by law or governmental order, rule or regulation, provided that the content and size of the sign do not exceed the requirements of such law, order, rule or regulation.
  - O. Such additional signs as "No Hunting," "No Fishing," "No Trespassing" and other like signs.
6. **Exemption From Fees:** The following signs shall be exempt from paying fees; however, a permit shall be obtained and they shall be subject to the Sign Regulations. (This exemption shall not be construed as relieving the owner of the sign from the responsibility for its meeting the structural and maintenance requirements as specified in these Regulations):
- A. Nonelectrical bulletin boards not exceeding 32 square feet in area for public, educational, charitable, fraternal or religious institutions when such sign is located on the premises of such institution.
  - B. Directional signs.

7. **Prohibited Signs:** Any signs and supports which are located upon or over the public right-of-way, including streets, alleys and parkways, shall be prohibited; provided, however, the following exceptions shall be allowed:
  - A. Signs and supports required by governmental authority.
  - B. Signs on commercial vehicles or commercial trailers which denote the name and address of a bona fide business which owns or leases said vehicle when these vehicles are lawfully operated or parked and not used expressly for the purpose of advertising a product, service or activity.
  - C. A temporary sign located on public property used to announce a special event or activity when written authorization is granted by both the Chief of Police and the Zoning Administrator that the sign will not constitute a traffic hazard or attractive nuisance, and the sign is located in a proper zone.
  - D. Signs allowed to project over public property in the "CP-3" Planned Central Business District, pursuant to Section 25-106 herein.

#### **25-105 DESIGN AND CONSTRUCTION STANDARDS**

The design and construction of signs and sign structures shall be subject to the following standards:

##### **1. Ground Signs:**

- A. **Letters, Materials to be Secured:** All letters, figures, characters, or representations in cutout or irregular form maintained in conjunction with, attached to or superimposed upon any ground sign shall be safely and securely built or attached to the sign's structure.
- B. **Premises to be Kept Free of Weeds, Etc.:** The premises surrounding all ground signs shall be maintained by the owner thereof in a sanitary and uncluttered condition, free and clear of all noxious substances, rubbish, litter and weeds.

##### **2. Projecting Signs:**

- A. **Removable Parts to be Secured:** Any removable parts of a projecting signs, such as a cover of a service opening, shall be securely fastened by safety chains or hinges.
- B. **Location:** The horizontal clearance between a projecting sign and the curb line shall be not less than 2 feet. A projecting sign projecting more than two-thirds of the distance from the property line to the curb line shall be not less than 12 feet above the ground or pavement below. A projecting sign projecting less than two-thirds of the distance from the property line to the curb line shall be not less than 8 feet above the ground or pavement below.

- C. **Awnings:** Awnings, whether used as a sign or not, may extend over public property not more than 7 feet from the face of a supporting building but no portion shall extend nearer than 2 feet to the face of the nearest curb line measured horizontally. In no case shall the awning extend over public property greater than two-thirds of the distance from the property line to the nearest curb in front of the building site.

### 25-106 DISTRICT REGULATIONS

1. **Agricultural and Single-Family Residential Districts:** The following types of signs, along with applicable size, height, and setback requirements in classes of districts zoned "AG", "RR", "SR", "V-1", "R-1", "R-1A", "R-1B" and "R-1C" are permitted:

A. **Functional Types**

- 1) Construction Sign
- 2) First Amendment Sign
- 3) Identification Sign
- 4) Nameplate Sign
- 5) Official Sign
- 6) Political Sign
- 7) Project Title Sign
- 8) Real Estate Sign
- 9) Service Sign

B. **Structural Types**

- 1) Ground Sign
- 2) Wall Sign

C. **Maximum Gross Surface Area**

- 1) Construction Signs: Thirty-two (32) square feet.
- 2) First Amendment Signs: Thirty-two (32) square feet.
- 3) Identification Signs: Eight (8) square feet.
- 4) Nameplate Signs: One (1) square foot.
- 5) Official Signs: One hundred (100) square feet.
- 6) Political Signs: Thirty-two (32) square feet.
- 7) Project Title Signs: Thirty-two (32) square feet.
- 8) Real Estate Signs: Six (6) square feet.
- 9) Service Signs: Eight (8) square feet.
- 10) Maximum Height: Fifteen (15) feet.
- 11) Required Setback: None for all permitted signs, but in no case shall any sign be placed on or project over public property.
- 12) Illumination: No sign shall be illuminated.

2. **Multi-Family Residential District:** The following types of signs, along with applicable size, height, and setback requirements in classes of districts zoned "RP-2" are permitted:

**A. Functional Types**

- 1) Construction Sign
- 2) First Amendment Sign
- 3) Identification Sign
- 4) Nameplate Sign
- 5) Official Sign
- 6) Political Sign
- 7) Project Title Sign
- 8) Real Estate Sign
- 9) Service Sign

**B. Structural Types**

- 1) Ground Sign
- 2) Wall Sign

**C. Maximum Gross Surface Area**

- 1) Construction Signs: Thirty-two (32) square feet.
- 2) First Amendment Signs: Thirty-two (32) square feet.
- 3) Identification Signs: Eight (8) square feet.
- 4) Nameplate Signs: One (1) square foot.
- 5) Official Signs: One hundred (100) square feet.
- 6) Political Signs: Thirty-two (32) square feet.
- 7) Project Title Signs: Thirty-two (32) square feet.
- 8) Real Estate Signs: Six (6) square feet.
- 9) Service Signs: Eight (8) square feet.
- 10) Maximum Height : Fifteen (15) feet.
- 11) Required Setback: None for all permitted signs, but in no case shall any sign be place on or project over public property.
- 12) Illumination: Signs may be illuminated indirectly or with internal illumination.

3. **Commercial Districts:** The following types of signs, along with applicable size, height and setback requirements in classes of districts zoned "CP-0", "CP-1" and "CP-2", are permitted:

**A. Functional Types Permitted**

- 1) Advertising Sign
- 2) Advertising Decoration
- 3) Billboard, except in "CP-0" district
- 4) Bulletin Board Sign
- 5) Business Sign
- 6) Construction Sign
- 7) Directional Sign
- 8) First Amendment Sign
- 9) Identification Sign
- 10) Nameplate Sign

- 11) Official Sign
- 12) Political Sign
- 13) Project Directory Sign
- 14) Project Title Sign
- 15) Real Estate Sign
- 16) Rural Business Sign
- 17) Service Sign

**B. Structural Types Permitted**

- 1) Awning, canopy and marquee signs
- 2) Ground sign
- 3) Roof sign
- 4) Projecting sign
- 5) Pole sign
- 6) Portable sign, subject to the restrictions of this Article
- 7) Wall sign

**C. Number of Signs Permitted:** Any of the functional types approved for this district with no more than one ground or pole sign permitted for each zoning lot having frontage on a public right-of-way. The maximum sign area of said ground or pole sign shall not exceed 200 square feet.

**EXCEPTION:** Where a zoning lot has a frontage greater than 250 feet along the same right-of-way, such zoning lot is permitted to have two (2) ground or pole signs, plus one (1) additional ground or pole sign for every additional 200 feet of frontage; or the owner may elect to combine two (2) or more such signs, where permitted, into one (1) ground or pole sign thereby allowing a fifty percent (50%) area increase for each sign that is eliminated, with a maximum allowable sign area not to exceed the maximum gross surface area.

**D. Maximum Gross Surface Area:** The combined area of all signs shall not exceed four (4) square feet of area for each lineal foot of lot, provided no single sign shall exceed a gross surface area of 200 square feet.

**E. Maximum Height:** Thirty (30) feet above the highest point of the principal structure, or fifty (50) feet above ground level, whichever is less.

**F. Required Setback:** None for all permitted signs, but in no case shall any sign be placed on or project over public property.

**G. Illumination:** Illuminated signs shall be permitted.

**4. Central Business District:** The following types of signs, with applicable size, height and setback requirements, are permitted in the "CP-3" Planned Central Business district:

**A. Functional Types Permitted**

- 1) Advertising Sign
- 2) Advertising Decoration
- 3) Billboard
- 4) Bulletin Board Sign
- 5) Business Sign
- 6) Construction Sign
- 7) Directional Sign
- 8) First Amendment Sign
- 9) Identification Sign
- 10) Nameplate Sign
- 11) Official Sign
- 12) Political Sign
- 13) Project Directory Sign
- 14) Project Title Sign
- 15) Real Estate Sign
- 16) Rural Business Sign
- 17) Service Sign

**B. Structural Types Permitted**

- 1) Awning, canopy and marquee signs
- 2) Ground sign
- 3) Roof sign
- 4) Projecting sign
- 5) Pole sign
- 6) Portable sign, subject to the restrictions of this Article
- 7) Wall sign

- C. Number of Signs Permitted:** Any of the functional types approved for this district with no more than one ground or pole sign permitted for each zoning lot having frontage on a public right-of-way. The maximum sign area of said ground or pole sign shall not exceed 200 square feet.

**EXCEPTION:** Where a zoning lot has a frontage greater than 250 feet along the same right-of-way, such zoning lot is permitted to have two (2) ground or pole signs, plus one (1) additional ground or pole sign for every additional 200 feet of frontage; or the owner may elect to combine two (2) or more such signs, where permitted, into one (1) ground or pole sign thereby allowing a fifty percent (50%) area increase for each sign that is eliminated, with a maximum allowable sign area not to exceed the maximum gross surface area.

- D. Maximum Gross Surface Area:** The combined area of all signs shall not exceed four (4) square feet of area for each lineal foot of lot, provided no single sign shall exceed a gross surface area of 200 square feet.
- E. Maximum Height:** Thirty (30) feet above the highest point of the principal structure, or fifty (50) feet above ground level, whichever is less.

- F. **Required Setback:** See section 25-105(2).
- G. **Illumination:** Illuminated signs shall be permitted.
5. **Industrial Districts:** The following types of signs, with applicable size, height and setback requirements in classes of districts zoned "IP-1" and "IP-2", are permitted:

**A. Functional Types Permitted**

- 1) Advertising Sign
- 2) Advertising Decoration
- 3) Billboard
- 4) Bulletin Board Sign
- 5) Business Sign
- 6) Construction Sign
- 7) Directional Sign
- 8) First Amendment Sign
- 9) Identification Sign
- 10) Nameplate Sign
- 11) Official Sign
- 12) Political Sign
- 13) Project Directory Sign
- 14) Project Title Sign
- 15) Real Estate Sign
- 16) Rural Business Sign
- 17) Service Sign

**B. Structural Types Permitted**

- 1) Awning, canopy and marquee signs
- 2) Ground sign
- 3) Roof sign
- 4) Projecting sign
- 5) Pole sign
- 6) Portable sign, subject to the restrictions of this Article
- 7) Wall sign

- C. Number of Signs Permitted:** Any of the functional types approved for this district with no more than one ground or pole sign permitted for each zoning lot having frontage on a public right-of-way. The maximum sign area of said ground or pole sign shall not exceed 200 square feet.

**EXCEPTION:** Where a zoning lot has a frontage greater than 250 feet along the same right-of-way, such zoning lot is permitted to have two (2) ground or pole signs, plus one (1) additional ground or pole sign for every additional 200 feet of frontage; or the owner may elect to combine two (2) or more such signs, where permitted, into one (1) ground or pole sign thereby allowing a fifty percent (50%) area increase for each

sign that is eliminated, with a maximum allowable sign area not to exceed the maximum gross surface area.

- D. **Maximum Gross Surface Area:** The combined area of all signs shall not exceed four (4) square feet of area for each lineal foot of lot, provided no single sign shall exceed a gross surface area of 200 square feet.
  - E. **Maximum Height:** Thirty (30) feet above the highest point of the principal structure, or fifty (50) feet above ground level, whichever is less.
  - F. **Required Setback:** None for all permitted signs, but in no case shall any sign be placed on or project over public property.
  - G. **Illumination:** Illuminated signs shall be permitted.
6. **Portable Signs:** Portable signs shall conform to the following regulations:
- A. Portable signs shall only be permitted in the "CP-1", "CP-2", "CP-3", "IP-1", and "IP-2" districts.
  - B. Portable signs shall be setback a minimum of five (5) feet as measured from the curb or roadway line to the nearest extremities of the sign, and shall not be located so as to hinder visibility or the interfere with the free and safe movement of traffic.
7. **Billboard Signs:** Billboard signs shall conform to the following requirements:
- A. Billboard signs shall be constructed to meet the construction standards as established in the applicable building code.
  - B. Billboard signs shall be located a minimum of eighty (80) feet from a residential property line.
  - C. The gross surface area of any billboard sign shall not exceed 200 square feet.
  - D. There shall be a minimum separation of 200 feet between all billboard signs on the same side of the street.
  - E. Billboard signs shall have a setback of not less than the greater of the following:
    - 1) Thirty (30) feet.
    - 2) The greatest setback of all the front buildings on the block on which the billboard sign is located.
    - 3) Billboard signs shall have a maximum height of thirty-five (35) feet.
    - 4) All lighting of billboard signs shall be so shielded as not to produce intensive or excessive light or glare on adjacent property.



**25-107 NONCONFORMING SIGNS**

Every sign in existence at the time these Sign Regulations become effective may continue in existence subject to the following:

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

DISTRICT	Maximum Height of Building		Minimum Yard Requirement in Feet			Minimum Lot Dimensions in Feet		Minimum Lot Area in Square Feet
	Feet	Stories	Front Yard	Side Yard (A)	Rear Yard	Width	Depth	
"AG" Agricultural	35(C)	2 ½(C)	75(C)	50(C)	50(C)	660	660	40 acres(D)
"RR" Rural Residential	35	2 ½	75	50	50	330	330	10 acres
"SR" Suburban Residential	35	2 ½	50	30	50	165	250	43,560 (E) or 87,120 (E)
"V-1" Village District (B)	35	2 ½	30	10	20	-	-	-
"R-1" Single-Family Residential	35	2 ½	30	15	20	100	150	20,000
"R-1A" Single-Family Residential	35	2 ½	30	5	20	65	100	7,000
"R-1B" Single-Family Residential	35	2 ½	30	5	20	65	100	7,000
"R-1C" Single-Family Residential	35	2 ½	30	5	20	40	100	5,600
"R:P-2" Planned Medium Density Residential	35	2 ½	30	5	20	40	100	7,000/3,500(F)
"CP-0" Planned Commercial Office	30	2	30	10	20	65	100	7,000
"CP-1" Planned General Business	35	3	30	10	20	65	100	7,000
"CP-2" Planned Highway Service Commercial	35	3	30	20	20	150	150	25,000
"CP-3" Planned Central Business	-	-	-	-	-	-	-	-0-
"IP-1" Planned Light Industrial	30	2	40	15	20	-	-	-0-
"IP-2" Planned Medium Industrial	30	2	40	15	25	-	-	-0-

- (A) A side yard shall be provided on each side of the lot. The dimension given is for one side only.
- (B) Lot size requirements are determined by Sanitation Code requirements.
- (C) Requirements apply only to properties on major roads or highways.
- (D) Property described as 1/4 of a 1/4 of a section or as a Government Lot shall be considered "AG" Agricultural even though the property may have less than a full 40 acres of land.
- (E) 43,560 if property is served by public water service; 87,120 if property is served by an on-site water well.
- (F) 7,000 for a single-family residence; 3,500 per unit for a multi-family residence.

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**SECTIONS:**

**27-101 APPLICATION**

**27-102 MODIFICATION OF HEIGHT REGULATIONS**

**27-103 MODIFICATION OF AREA REGULATIONS**

**27-101 APPLICATION**

The regulations set forth in this Article qualify or supplement the district regulations appearing elsewhere in these Regulations.

**27-102 MODIFICATION OF HEIGHT REGULATIONS**

1. The height regulations as prescribed in these Regulations shall not apply to the following:
  - A. Belfries
  - B. Chimneys
  - C. Church Spires
  - D. Conveyors
  - E. Cooling Towers
  - F. Elevator Penthouses
  - G. Fire Towers
  - H. Flag Poles
  - I. Grain Elevators
  - J. Monuments
  - K. Ornamental Towers and Spires
  - L. Smoke Stacks
  - M. Stage Towers or Scenery Lofts
  - N. Tanks
  - O. Water Towers
  - P. Lighting Poles or Standards
  
2. Public or semi-public service buildings, hospitals, institutions, or schools, when permitted in a district, may be erected to a height not exceeding 75 feet, when the required side and rear yards are increased by at least 1 foot for each 1 foot of additional building height above the height regulations for the district in which the building is located.

**27-103 MODIFICATION OF AREA REGULATIONS**

1. **Yards, generally:**
  - A. Except as herein provided for accessory buildings and structures, whenever a lot abuts upon a public alley, one-half of the alley width may be considered as a portion of the required yard.
  
  - B. Every part of a required yard shall be open to the sky, except as authorized by this Article. Ordinary projections of sills, awnings, canopies, belt courses, air conditioning units, chimneys, cornices, and ornamental features may project to a distance not to exceed 24 inches into a required yard setback.

- C. In the event that a lot is to be occupied by a group of two or more related buildings to be used for residential, school, institutional, hotel, or motel purposes, there may be more than one main building on the lot where such buildings are arranged around a court having a direct street access; provided, however:
- 1) That said court, between buildings that are parallel or within 45 degrees of being parallel, shall have a minimum width of 30 feet for 1-story buildings, 40 feet for 2-story buildings, and 50 feet for 3-story buildings, and, in no case may such buildings be closer to each other than 15 feet;
  - 2) Where a court having direct street access is more than 50 percent surrounded by a building, the minimum width of the court shall be at least 20 feet for 1-story buildings, 30 feet for 2-story buildings, and 40 feet for 3-story buildings.
- D. Where a lot is used for a commercial or industrial purpose, more than one main building may be located on the lot, but only when such buildings conform to all open space requirements around the lot for the district in which the lot is located.

**2. Accessory Buildings and Structures:**

- A. Except as herein provided, no accessory building shall project into a required yard setback along any street.
- B. In Districts "R-1A", "R-1B" and "RP-2", accessory buildings may be located in a required side or rear yard; however, no accessory building may be located closer than 5 feet from a rear lot line, nor less than 3 feet from a side lot line. No alley may be encroached upon in meeting this requirement. No accessory building shall be placed in a front yard area closer to the front property line than the main building or structure on the property.
- C. Filling station pumps and pump islands may occupy the required yards; provided, however, that they are not less than 15 feet from the property line, and further provided that canopies and other similar coverings over the pumps and pump islands shall have at least 14 feet of clearance and shall not project beyond the property line.
- D. Accessory, open and uncovered swimming pools and permanent barbecue grills may occupy a required rear yard, provided they are not located closer than 5 feet to the rear lot line nor closer than 3 feet to a side lot line. No alley may be used in meeting this requirement.
- E. Accessory storm caves which are not a part of the main building may occupy a required rear yard, provided they are not located closer than 5 feet to the rear lot line nor closer than 3 feet to a side lot line. No alley may be used in meeting this requirement.
- F. Accessory buildings which are not a part of the main building, although connected by an open breezeway, may be constructed under the requirements of Section 27-103(2)(b).

G. Parabolic or satellite dish-type antennas may be placed in any district.

**3. Front Yards:**

A. When an official line has been established for the future widening or opening of a street or major thoroughfare upon which a lot abuts, then the depth of a front or side yard shall be measured from such official line to the nearest line of the building.

B. On double frontage lots, the required front yard shall be provided on each street frontage.

C. Open, unenclosed porches, platforms, or paved terraces, not covered by a roof or canopy and which extend or project into the front and side yard shall not extend or project into the required front yard more than 10 feet or into the required side yard more than 6 feet.

D. Where 25 percent or more of the street frontage within 200 feet of the property in question, including properties on the same side of the street in the next block, is improved with buildings that have a front yard (with a variation of 6 feet or less) that is greater or less than the required front yard in the district, no building shall project beyond the average front yard so established; provided, however, that a depth of front yard of more than 50 percent in excess of the depth of the required front yard in the district in which the lot is located shall not be required. Where 40 percent or more of the street frontage in a block is improved with buildings that have no front yard, no front yard shall be required for the remainder of the street frontage.

**4. Side Yards:** The minimum depth of side yards for schools, libraries, churches, community houses, and other public and semi-public buildings in residential districts shall be 25 feet, except where a side yard is adjacent to a business or industrial district, in which case the depth of the yard shall be as required in the district in which the building is located.

**5. Rear Yards:** Open or lattice-enclosed fire escapes, outside stairways and balconies opening upon fire towers, and the ordinary projections of chimneys and flues may project into the required rear yard for a distance of not more than 5 feet, but only where the same are so placed as not to obstruct light and ventilation.

**6. Corner Visibility:** No sign, fence, wall, hedge, planting, or other obstruction to vision, extending to a height in excess of 3 feet above the established street grade measured from the crown of the street, shall be erected, planted, or maintained within the visibility triangle area of a corner lot.

**7. Easements:** No building, either a main or an accessory building, shall be constructed, moved, or altered so as to encroach onto or within a platted or recorded easement.

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**SECTIONS:**

- 28-101 APPLICATION OF CONDITIONAL USES**
- 28-102 ADDITIONS AND CHANGES TO CONDITIONAL USES**
- 28-103 CONDITIONAL USES ENUMERATED**
- 28-104 CONTINUANCE OF A CONDITIONAL USE**
- 28-105 ACCESSORY USES**
- 28-106 ELIGIBILITY FOR ACCESSORY USE**
- 28-107 ACCESSORY USES ALLOWED**
- 28-108 SPECIALTY ACCESSORY USES**
- 28-109 ACCESSORY BUILDING OR STRUCTURE USE**
- 28-110 PROHIBITED USES**

**28-101 APPLICATION OF CONDITIONAL USES**

Recognizing that certain uses may be desirable when located in the community, but that these uses may be incompatible with other uses permitted in a district, certain Conditional Uses listed herein, when found to be in the interest of the public health, safety, morals, and general welfare of the community, may be permitted, except as otherwise specified, in any district from which they are prohibited.

Before the location or establishment thereof, or before any change or use of the premises existing at the time of the effective date of these Regulations or permitted as herein provided is made, a development plan in sufficient detail and a statement as to the proposed use of the buildings, structures, and premises shall be submitted to the Planning Commission as specified in Article 21 of these Regulations. The Planning Commission shall hold a public hearing following the provisions also outlined in Article 33 of these Regulations and shall review such development plan and statements and shall, after a careful study of the effect that such buildings, structures, or uses will have upon the surrounding property, submit a recommendation to the Governing Body.

Following receipt of the Planning Commission's recommendation, the Governing Body may, within the specifications herein provided, permit such buildings, structures, or uses where requested, provided that the public health, safety, morals, and general welfare will not be adversely affected, that ample off-street parking facilities will be provided, and that necessary safeguards will be provided for the protection of surrounding property, persons, and neighborhood values. In this regard, the Governing Body may impose reasonable conditions on the approval of a Conditional Use Permit including, but not limited to, those items identified in Article 21 of these Regulations.

**28-102 ADDITIONS AND CHANGES TO CONDITIONAL USES**

All requests for additions and structural alterations to Conditional Uses previously approved by the Governing Body shall be considered in the same procedure as outlined in Section 28-101 herein.

**28-103 CONDITIONAL USES ENUMERATED**

The following Conditional Uses may be approved by the Governing Body as provided in this Article:

1. Airports, aviation fields, helio-ports, and/or landing fields, either publicly or privately held.



2. In property zoned "RP-2", apartment houses in any variety of design, including but not limited to garden apartments, townhouses, or condominiums; provided sufficient on-site and off-site improvements are made to accommodate the density and intensity of the project. Sufficient restrictions, conditions and limitations may be imposed to maintain the residential character of the neighborhood.
3. Bed and breakfast facility.
4. Buildings, structures or premises for public utility services or public service corporations; including but not limited to, water treatment plants, wastewater treatment plants, pump stations, filter beds, water towers, substations, electric transmission lines, reservoirs, and utility maintenance shops and yards. This shall include commercial wind generation facilities, except where permitted by right in the "AG" Agricultural District.
5. Cemeteries, mausoleums or crematories for the disposal of the dead.
6. Churches and church-related facilities including camps, schools, retreat centers and similar facilities; publicly-owned and operated community buildings, art gallery, museums and libraries.
7. Commercial parking lots.
8. Commercial uses in a residential structure located in a residential district when, in the opinion of the City, the use will not be detrimental to the residential neighborhood by reason of the intensity of use. Sufficient restrictions, conditions and limitations may be imposed to maintain the residential character of the neighborhood.
9. Confined animal feeding operations including, but not limited to, commercial stockyards and/or feedlots and/or corporate farms, including hog, dairy and poultry, provided:
  - A. The development plan shall include an area map showing the location of all habitable structures within 3 miles of all properties proposed to be used in the operation, including lands on which facilities and structures are to be constructed as well as land used for disposal of animal wastes by any means. All facilities and structures, including waste lagoons, shall be located a minimum of one (1) mile from all habitable structures and places frequented by the public. All lands used for effluent disposal shall be located a minimum of one half (1/2) mile from all habitable structures and places frequented by the public and shall have the effluent injected or worked into the soil within 48 hours of application to the land. The separation requirements may be reduced if the occupants of any habitable structures within said area agree in writing to waive the requirement and said agreement is recorded with the Rush County Register of Deeds.
  - B. Copies of all permit documents, plans, specifications or reports required to be submitted to the KDHE or any state agency shall be submitted with the application.

- C. A copy of the Emergency Incident Response Plan or any other such titled or referenced document that identifies the response procedures to be followed by the operators in the event of any incident necessitating an emergency response shall be submitted with the application. The Plan shall include the names, titles and all telephone numbers to be called in the event of such an emergency.
  - D. The applicant shall identify the method to be used in the handling and disposal of all dead animals that are generated from all the operations.
  - E. All roads not a part of the primary highway system of the State of Kansas intended to be used by the applicant as a means of ingress and egress to the proposed facility shall be designated on the application. Final approval of the designated roads to be used shall be made a part of the Conditional Use Permit, if approved. A construction and maintenance agreement between the applicant and Rush County shall be required. Such agreement shall specify the standards to which such roads will be reconstructed, if necessary, and the standards to which such roads will be subsequently maintained by the owner/operator of the confined animal feeding operation. The agreement shall also specify the form, manner, timing, and frequency of maintenance and upkeep. The responsibility of determining sufficiency of compliance with the road agreement shall be with Rush County or its designee.
  - F. If the Conditional Use Permit is approved, the applicant and all successors or operators of the facilities shall submit copies of all annual reports and documents required to be submitted to all state regulatory agencies to the Rush County Clerk who shall keep them on file.
- 10. Contractor's shop and/or yard, including construction equipment and/or material storage areas.
  - 11. Drive-in theatres.
  - 12. Exposition centers and/or buildings.
  - 13. Explosives, fireworks, ammunition, black powder, or similar material wholesale sales, storage, warehousing, and/or manufacturing.
  - 14. Fairgrounds.
  - 15. Fire stations.
  - 16. Grain elevators and its accessory activities including, but not limited to, bulk fuel storage facilities, ammonia storage, tire repair facilities, etc.
  - 17. Group Boarding Home, Group Day Care Home, Child Care Center, Day Care Center, Detention Center, Family Day Care Home, or Residential Center, provided:

- A. The applicant shall submit, as a part of the application, the plans for the proposed facility giving the type of services to be rendered, the number of persons to be placed in the facility, the number of staff to be employed and other information that will help in determining the extent of services to be provided.
  - B. A letter from the Rush County Health Officer shall be submitted by the applicant, giving the current status of the applicant's license to operate the proposed facility and listing all requirements yet to be met in order for the proposed facility to be granted authorization to begin its operation.
  - C. Off-street parking at a rate of one space per employee plus two additional spaces for guests.
  - D. When operated out of an existing or proposed residential structure, the following standards shall be met:
    - 1) That only one non-illuminated ground or wall sign not more than 4 square feet in area is used to advertise the home occupation.
    - 2) Outside play areas shall be fenced.
18. Hospitals, nursing or convalescent homes, congregate care facilities and retirement housing.
19. Hospital or clinic for large or small animals, provided:
- A. That such hospital or clinic and treatment rooms be maintained within a completely enclosed, soundproof building, and that such hospital or clinic be operated in such a way as to produce no objectionable odors outside its walls.
20. Judicial centers, jails, penal or correctional institutions.
21. Keeping of exotic birds or animals.
22. Kennels, either boarding or breeding, provided:
- A. Pens or open kennels shall be located at least 50 feet from the front lot line and at least 30 feet from any side or rear lot line.
  - B. Open pens shall not be required to be served by sanitary sewer facilities unless soil conditions will not support adequate percolation.
23. Manufactured home parks, subject to the standards established in the Manufactured Home and Recreational Vehicle Code of the Rush County and the cities of Bison, LaCrosse, Liebenthal, McCracken, Otis, Rush Center and Timken, Kansas.
24. Mortuaries and attendant accessory activities and facilities.
25. Parks and playgrounds.

26. Radio or television broadcasting towers and/or stations, microwave transmitting and/or receiving towers and/or stations, or any tower or other similar structure 50 feet or more in height; whether publicly or privately owned, provided:
  - A. The location of every tower must be such that it is at least a minimum distance from all property lines equal to  $\frac{1}{2}$  the height of the tower. A plot plan shall be submitted with the application.
  - B. Every tower shall be designed to provide co-location with a minimum of 3 users.
  - C. No new tower location shall be approved unless the applicant shall show that there is not sufficient or usable space on existing or approved towers in the same service area.
28. Recreational or sports-related activity or facility, whether publicly or privately owned.
28. Recreational vehicle campground, subject to the standards established in the Manufactured Home and Recreational Vehicle Code of the Rush County and the cities of Bison, LaCrosse, Liebenthal, McCracken, Otis, Rush Center and Timken, Kansas.
29. Schools, preschools or kindergartens, either publicly or privately owned or operated.
30. Show arenas, rodeo arenas and/or similar facilities.
31. Truck stops and/or truck terminals.
32. Zoos, commercial aquariums, or aviaries.
33. Any other use not specifically listed as a permitted and/or accessory use in any district in these Regulations, or as a prohibited use.

#### **28-104 CONTINUANCE OF A CONDITIONAL USE**

A Conditional Use Permit shall be allowed to continue, unless specified otherwise as a condition of authorization, as long as all conditions placed on it are met; however, if that particular use ceases to exist for a period of six months, it will forfeit its Conditional Use Permit and will not be allowed to exist again unless a new application is made, a public hearing held and a new Conditional Use Permit approved.

#### **28-105 ACCESSORY USES**

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

**28-106 ELIGIBILITY FOR ACCESSORY USE**

The determination of the eligibility of a proposed use as an accessory use shall be made by the Zoning Administrator.

**28-107 ACCESSORY USES ALLOWED**

Accessory uses shall be allowed; provided, said accessory uses shall be limited to those specified herein for the various zoning classifications:

1. In District "AG" Agricultural, the following, or similar accessory uses are allowed:
  - A. Open or enclosed storage of farm materials, products or equipment; but not junk.
  - B. Any and all farm buildings, including, but not limited to, barns, stables, sheds, toolrooms, shops, bins, tanks and silos.
  - C. The use of a manufactured home as an accessory dwelling on land used for agricultural purposes when used by persons employed thereon or as a caretaker, including their families. At no time shall a manufactured home or the land upon which it sits be intended and/or used as a rental unit in the "AG" District.
  - D. Fuel storage, tanks and dispensing equipment for fuels used solely for a farming operation. No retail sales of such fuels shall be allowed as an accessory use.
  - E. Wholesale or retail sales of agricultural products grown or raised by the farm operator.
  - F. A hobby activity operated by the occupant of the premises purely for personal enjoyment, amusement or recreation.
  - G. Home occupations.
  - H. Accessory buildings and uses commonly associated with residential activity including, but not limited to, the following:
    - 1) Private garages
    - 2) Guest houses
    - 3) Home barbecue grills
    - 4) Small storage sheds
    - 5) Satellite dish antennas
    - 6) Accessory off-street parking and loading spaces
2. In District "RR" Rural Residential, "SR" Suburban Residential, "V-1" Village, and "R-1" Single-Family Residential Districts only the following accessory uses are allowed:
  - A. Accessory buildings and uses commonly associated with residential activity, including, but not limited to, the following:
    - 1) Accessory off-street parking and loading spaces

- 2) Fences or walls
  - 3) Flag poles
  - 4) Gates or guard houses for subdivisions
  - 5) Guest houses
  - 6) Home barbecue grills
  - 7) Parabolic and satellite dish-type antennas
  - 8) Play equipment
  - 9) Private garages and carports
  - 10) Servants quarters
  - 11) Small storage sheds
  - 12) Solar collectors
  - 13) Swimming pools
  - 14) Television and radio receiving antennas less than 50 feet in height
  - 15) No accessory building or use shall occupy a required front yard (except basketball goals, flag poles and fences as permitted.) In the "R-1" Single-Family Residential District, the total floor area of all accessory buildings shall not exceed 900 square feet.
- B. A hobby activity may be operated as an accessory use by the occupant of the premises purely for personal enjoyment, amusement or recreation.
- C. In the "SR" Suburban Residential District on lots three (3) acres or larger, agricultural activities may be conducted as accessory activities, such as growing of crops, pasturage of animals, growing of hay, or other similar activities. However, at no time shall such activity be classified or permitted as the primary usage of the land; said usage being as a residential home site in either of the zoning districts.
- D. Home occupations such as, but not limited to, the following:
- 1) Accountant
  - 2) Architect
  - 3) Artist
  - 4) Attorney
  - 5) Author or writer
  - 6) Chiropractor
  - 7) Clergyman
  - 8) Cosmetologist
  - 9) Counselor
  - 10) Engineer
  - 11) Home crafts
  - 12) Insurance Agent
  - 13) Osteopath
  - 14) Photographer
  - 15) Planner
  - 16) Real Estate Agent
  - 17) Seamstress/Dressmaker
  - 18) Secretary/Typist

- 19) Teaching or instruction provided not more than 3 students are taught at any one time and not more than 12 students per day.

The following conditions and restrictions shall apply to such customary home occupations:

- a) That the home occupation shall be carried on wholly within a main building or structure, or within a permitted accessory building or structure, provided that the primary use of the main building or structure is clearly the dwelling used by the person as his or her private residence.
  - b) That no person other than members of the household living on the premises and two (2) outside persons shall be employed.
  - c) That only one nonilluminated ground or wall sign not more than 4 square feet in area is used to advertise the home occupation.
  - d) That no display or storage of equipment or materials outside of a building or structure shall be permitted.
  - e) That no equipment or machine is used in such activities that is perceptible off the premises by reason of noise, smoke, dust, odor, heat, glare, radiation, electrical interference or vibration.
  - f) That off-street parking and loading shall be provided and that no generation of substantial volumes of vehicular or pedestrian traffic or parking demand shall be permitted.
3. In District "R-1A" Single-Family Residential, "R-1B" Single-Family Residential, "R-1C" Single-Family Residential, and "RP-2" Planned Medium Density Residential District, only the following accessory uses are allowed:
    - A. Accessory buildings and uses commonly associated with residential activity, including, but not limited to, the following:
      - 1) Accessory off-street parking and loading spaces
      - 2) Fences or walls
      - 3) Flag poles
      - 4) Gates or guard houses for subdivisions
      - 5) Guest houses
      - 6) Home barbecue grills
      - 7) Parabolic and satellite dish-type antennas
      - 8) Play equipment
      - 9) Private garages and carports
      - 10) Servants quarters
      - 11) Small storage sheds
      - 12) Solar collectors

- 13) Swimming pools
- B. Television and radio receiving antennas less than 50 feet in height
  - C. No accessory building or use shall occupy a required front yard (except basketball goals, flag poles and fences as permitted.) The total floor area of all accessory buildings shall not exceed 900 square feet.
  - D. A hobby activity may be operated as an accessory use by the occupant of the premises purely for personal enjoyment, amusement or recreation.
  - E. Home occupations such as, but not limited to, the following:
    - 1) Accountant
    - 2) Architect
    - 3) Artist
    - 4) Attorney
    - 5) Author or writer
    - 6) Chiropractor
    - 7) Clergyman
    - 8) Cosmetologist
    - 9) Counselor
    - 10) Dentist
    - 11) Engineer
    - 12) Home crafts
    - 13) Insurance Agent
    - 14) Osteopath
    - 15) Photographer
    - 16) Physician
    - 17) Planner
    - 18) Real Estate Agent
    - 19) Salesman
    - 20) Seamstress/Dressmaker
    - 21) Secretary/Typist
  - F. Teaching or instruction provided not more than 3 students are taught at any one time and not more than 12 students per day
  - G. The following conditions and restrictions shall apply to such customary home occupations:
    - 1) That the home occupation shall be carried on wholly within a main building or structure, or within a permitted accessory building or structure, provided that the primary use of the main building or structure is clearly the dwelling used by the person as his or her private residence.
    - 2) That no person other than members of the household living on the premises and one (1) outside person shall be employed.



- 3) That only one non-illuminated ground or wall sign not more than 4 square feet in area is used to advertise the home occupation.
  - 4) That no display or storage of equipment or materials outside of a building or structure shall be permitted.
  - 5) That no equipment or machine is used in such activities that is perceptible off the premises by reason of noise, smoke, dust, odor, heat, glare, radiation, electrical interference or vibration.
  - 6) That off-street parking and loading shall be provided and that no generation of substantial volumes of vehicular or pedestrian traffic or parking demand shall be permitted.
4. In Districts "CP-0" Planned Commercial Office, "CP-1" Planned General Commercial, "CP-2" Planned Highway Service, and "CP-3" Planned Central Business District, only the following accessory uses are allowed:
- A. Awnings.
  - B. Parking areas, loading areas, and/or private garages for motor vehicles.
  - C. Exterior lighting, including floodlighting.
  - D. Radio, television, and/or microwave antennas or towers, provided such shall not exceed 50 feet in height.
  - E. Fences or walls, including security or screen fences or walls.
  - F. Flagpoles, cooling towers and other similar uses.
  - G. Food service and vending machines for tenants.
  - H. Solar collectors.
  - I. Parabolic and satellite dish-type antennas.
  - J. Washing and other motor vehicle cleaning shall be permitted as an accessory use in service stations, provided such washing and cleaning shall not utilize more than two car stalls or more than 30 percent of the floor area in any one station, shall be a part of the main building, shall not be equipped to handle anything larger than a one ton truck, and shall not be open for use during hours when the service station is closed. Such washing and cleaning operation shall utilize the same entrance drives as the service station and may use coin-operated or attendant-operated equipment, but not continuous line or conveyor type washing equipment.

- K. Material storage yards, in connection with retail sales of products sold on the premises, where storage is incidental to the approved occupancy of a building, provided all products and materials used or stored are in a completely enclosed building or enclosed by a masonry wall, fence or hedge no less than 6 feet in height. Storage of all materials and equipment shall not exceed the height of said wall or fence. Storage of motor vehicles used in connection with the permitted trade or business is permitted within the walls, but not including storage of heavy equipment such as road-building or excavating equipment.
5. In Districts "IP-1" Planned Light Industrial, and "IP-2" Planned Medium Industrial, only the following accessory uses are allowed:
- A. Awnings.
  - B. Parking areas, loading areas and/or private garages for motor vehicles.
  - C. Exterior lighting, including floodlighting.
  - D. Fences or walls, including security or screen fences or walls.
  - E. Loading equipment.
  - F. Parabolic and satellite dish-type antennas.
  - G. Radio, television and/or microwave antennas or towers, provided such shall not exceed 50 feet in height.
  - H. Gate houses.
  - I. Employee recreation facilities.

#### **28-108 SPECIALTY ACCESSORY USES**

The following uses, activities, or items shall be the accessory uses or restrictions allowable:

1. Hotels, Motels, Motor Hotels: The following are accessory uses within a hotel, motel or motor hotel:
- A. Restaurant
  - B. Health clubs, spas and exercise rooms
  - C. Clubs
  - D. Drinking establishments
  - E. Banquet rooms
  - F. Notion counters
  - G. Newspaper and magazine counters
  - H. Vending machines
  - I. Arcades
  - J. Beauty and barber shops

- K. Flower and gift shops
- L. Swimming pools

Provided all except swimming pools are within the main building and designed to serve the occupants and patrons of the hotel, motel or motor hotel.

2. Hospitals: The following are accessory uses within a hospital:
  - A. Residential quarter for staff and employees
  - B. Nursing and convalescent quarters
  - C. Storage and utility buildings
  - D. Food service and vending machines
  - E. Laundry and dry cleaning pickup and delivery
  - F. Flower and gift shops
  - G. Other similar services for hospital personnel, visitors and patients
3. Construction Sites: Construction and hauling trailers may be used as a temporary construction office on the site of a construction project, provided such construction or hauling trailer is removed upon completion of the project.
4. Fences or walls inside the cities of Bison, LaCrosse, Liebenthal, McCracken, Otis, Rush Center and Timken, only, subject to the following:
  - A. Fences or walls may be constructed to a maximum height of eight (8) feet above the average grade subject to the restrictions of this Article. For all fences or walls greater than six (6) feet in height, where a new fence or wall is constructed or an existing fence or wall is being extended, a permit shall be obtained from the City. A fence permit shall also be required for the replacement or reconstruction of 50 percent (50%) or more of the linear feet of the entire existing fence. Any such replacement or reconstruction shall comply with all the provisions of this Article except setbacks. In determining the height of a fence, the material used in the fence posts shall not be considered.
  - B. Fences or walls (including retaining walls) in any planned district shall be approved by the Planning Commission as part of the development plan prior to the issuance of any fence permit.
  - C. Retaining walls may be permitted where they are reasonably necessary due to the topography of the lot, where the wall is located at least two (2) feet from any street right-of-way, and where the wall does not extend more than six (6) inches above the ground level of the land being retained.
  - D. All fences or walls constructed prior to the adoption of these Regulations which do not meet the standards of this Article may be replaced and maintained resulting in a fence the same size, type and material; provided, however, that no fence shall be replaced or reconstructed in a manner which obstructs the sight distance triangles as defined in this Article.

- E. In all districts, the following restrictions and standards shall apply to all fences and walls:
- 1) Location.
    - a) Front yard. A fence or wall not more than three (3) feet in height may project into or enclose any required front yard or side yard to a depth from the street line equal to the required depth of the front yard.
    - b) Rear yard. A fence or wall may be constructed on the rear property line on all lots whose rear lot lines abut another lot or a designated thoroughfare. However, no fence shall be permitted in any platted easement. In the case of a double frontage lot whose rear yard abuts a collector or local street, a fence or wall may be constructed no closer than fifteen (15) feet to the rear property line.
    - c) Side yard. A fence or wall may be constructed on the side property line, except that no fence shall be closer than fifteen (15) feet to any collector or local street right-of-way. In addition, no fence shall be permitted in any platted easement.
    - d) Corner lot. A fence or wall not more than three (3) feet in height may project into or enclose any required front or side yard along the street frontage of the lot.
  - 2) Design Standards.
    - a) All fences and walls shall be constructed with a finished side facing outward from the property. The posts and support beams shall be on the inside or shall be designed as an integral part of the finished surface.
    - b) All fence segments abutting a designated thoroughfare, except on corner lots, shall provide one (1) gate opening per lot to allow access to the area between the fence and the edge of the street for maintenance and mowing.
    - c) Spikes and Barbed Wire Fences. No person shall place or permit to be placed or remain on any fence or wall, within five (5) feet of any public street or sidewalk or less than six (6) feet above grade, any spikes or sharp pointed cresting, or any barbed wire, or other thing dangerous and liable to snag, tear, cut or otherwise injure anyone coming in contact therewith.
    - d) Electric Fences. No person shall erect a fence containing uninsulated electric conductors that may be exposed to human contact anywhere within the City.

- e) Swimming Pools. Private swimming pools having a water depth of two (2) feet or more shall be separated from the remainder of the yard by a protective fence or other permanent structure at least four (4) feet in height. The protective enclosure shall be maintained by locked gates or entrances when the pool is not tended by a qualified and responsible person.

**28-109 ACCESSORY BUILDING OR STRUCTURE USE**

No accessory building or structure shall be constructed upon a lot until the construction of the main building or structure has been actually commenced. No accessory building or structure shall be used unless the main building or structure on the lot is also being used. No cellar or basement shall be used as a dwelling prior to substantial completion of the dwelling of which it is a part.

**28-110 PROHIBITED USES**

After the effective date of these Regulations:

1. No mobile home, as defined in these Regulations, shall be moved, relocated, or otherwise placed on any property in the jurisdiction of these Regulations, including within any Manufactured Home Park.
2. No manufactured home or mobile home shall be used for any purpose other than as a residential dwelling as permitted within these Regulations. At no time shall a manufactured home or mobile home be permitted to be converted to a storage unit, office or any other such use, except when used as a permitted accessory use in this Article.
3. No mobile home or manufactured home originally built to be a single-wide unit shall be attached or connected to any other mobile home or manufactured home, or to any other structure or building. This shall not prohibit reasonable, aesthetically designed stoops, porches, decks, carports or the like from being built onto or adjacent to an approved manufactured home.
4. No property shall be used as junkyard, sanitary landfill, construction/demolition landfill, industrial landfill, hazardous or toxic waste storage facility, or other similar use or activity, including as an accessory use to another principal use unless such use or activity has been approved by the issuance of a Conditional Use Permit as provided within these Regulations.

**SECTIONS:**

- 29-101 NONCONFORMING LOTS OF RECORD**
- 29-102 NONCONFORMING USE OF LAND**
- 29-103 NONCONFORMING USE OF STRUCTURES**
- 29-104 DISCONTINUANCE OF NONCONFORMING USES**
- 29-105 DESTRUCTION OF A NONCONFORMING USE**
- 29-106 INTERMITTENT USE**
- 29-107 EXISTENCE OF A NONCONFORMING USE**

**29-101 NONCONFORMING LOTS OF RECORD****1. In Residential Districts.**

- A. In any residential district, notwithstanding the regulations imposed by any other provision, a single-family detached dwelling which complies with the restrictions in Section 29-101-1.b., below, may be erected on a lot that is not less than 25 feet in width and that consists entirely of a tract of land that:
  - 1) Has less than the prescribed minimum lot area, width or depth, or all three, and,
  - 2) Is shown by a recorded plat or deed to have been owned separately and individually from adjoining tracts of land at a time when the creation of a lot of such size and width at such location would not have been prohibited by any zoning regulations, and,
  - 3) Has remained in separate and individual ownership from adjoining tracts of land continuously during the entire time that the creation of such lot has been prohibited by the applicable zoning regulation or regulations.
- B. Construction permitted by Section 29-101-1.a., above, shall comply with all of the regulations (except lot area, width and depth) applicable to single-family dwellings in the zoning district in which the lot in question is located; provided, however, that the following side yard requirements shall apply in place of the side yard requirements otherwise applicable:
  - 1) The dwelling shall be placed on the lot so as to provide a yard on each side of the dwelling.
  - 2) The sum of the widths of the two side yards on each lot shall be not less than the smaller of:
    - a) Twenty-five percent of the width of the lot, or
    - b) The minimum total for both side yards prescribed by the bulk regulations for said zoning district, and,
    - c) No side yard shall be less than 10 percent of the width of the lot, and in no case less than 3 feet.

- C. In any residential district allowing a two-family dwelling, said two-family dwelling may be erected on a lot that is not less than 25 feet in width when the conditions specified in Section 29-101-1 (a) and (b) above are met.

**2. In Districts Other Than Residential Districts.**

- A. In any district other than a residential district, notwithstanding the regulations imposed by any other provision of these Regulations, a building designed for any permitted use may be erected on a lot of the type described in Section 29-101-1.a., previously cited.
- B. Construction permitted by Section 29-101-1.a., previously cited, shall comply with all the regulations (except lot area, width and depth) applicable in the zoning district in which the lot in question is located.

**29-102 NONCONFORMING USE OF LAND**

Where open land is being used as a nonconforming use at the time of the enactment of these Regulations, and such use is the principal use and not accessory to the main use conducted in a structure, such use may be continued provided such nonconforming use shall not be extended or enlarged, either on the same or adjoining property. The protection afforded to nonconforming use of land by this section applies only to such land held under ownership or lease agreement for said activity on or before the effective date of these Regulations, but shall not apply to new lands purchased or leased after said date. In addition, said protection afforded to nonconforming use of land shall not apply to activities not legal under any other laws.

**29-103 NONCONFORMING USE OF STRUCTURES**

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

**29-104 DISCONTINUANCE OF NONCONFORMING USES**

No land or structure or portion thereof used in whole or in part for a nonconforming use which remains idle or unused for a continuous period of one (1) year, whether or not the equipment, fixtures, improvements or facilities are removed, shall again be used except in conformity with the regulations of the district in which such land or structure is located.

**29-105 DESTRUCTION OF A NONCONFORMING USE**

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

**29-106 INTERMITTENT USE**

The casual, intermittent, temporary or illegal use of land or structures shall not be sufficient to establish the existence of a nonconforming use. The existence of a nonconforming use on the part of a lot or tract shall not be construed to establish a nonconforming use on the entire lot or tract.

**29-107 EXISTENCE OF A NONCONFORMING USE**

Whether a nonconforming use exists shall be a question of fact and shall be decided by the Zoning Administrator, subject to appeal to the Board of Zoning Appeals after public notice and hearing and in accordance with the rules of the Board and of these Regulations.



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**SECTIONS:**

- 30-101 ORGANIZATION AND PROCEDURE**
- 30-102 POWERS**
- 30-103 VARIANCES**
- 30-104 SPECIAL EXCEPTIONS**
- 30-105 SPECIAL YARD AND HEIGHT EXCEPTIONS**
- 30-106 GUIDELINES FOR CONDITIONS**
- 30-107 APPLICATION**
- 30-108 STAY OF PROCEEDINGS**
- 30-109 PUBLIC HEARING**
- 30-110 FINDINGS AND RECORDS OF PROCEEDINGS**
- 30-111 LAPSE OF SPECIAL EXCEPTION**
- 30-112 DECISIONS OF THE BOARD**

**30-101 ORGANIZATION AND PROCEDURE**

The full membership of the Rush County Joint Planning Commission, as established by the Governing Body, is hereby declared to be the Rush County Joint Board of Zoning Appeals and, as such, shall function with its full membership as the Rush County Joint Board of Zoning Appeals as referred to herein. In all instances within this Article and/or these Regulations where reference is made to the Board of Zoning Appeals, said board shall be the Rush County Joint Planning Commission acting as the Rush County Joint Board of Zoning Appeals.

The Board of Zoning Appeals shall administer the details of the application of these Regulations in accordance with the general rules set forth herein. The Board may adopt rules and regulations as it may deem necessary to effectuate the provisions of these Regulations.

**30-102 POWERS**

The Board of Zoning Appeals shall have the following powers:

1. To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of these Regulations.
2. To hear and decide special exceptions to the terms of these Regulations upon which such Board is required to pass under these Regulations.
3. In accordance with the specific provisions of this Article, to authorize upon appeal of specific cases such variance from the terms of these Regulations as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of these Regulations would result in unnecessary hardship, and so that the spirit of these Regulations shall be observed and substantial justice done.

**30-103 VARIANCES**

The Board of Zoning Appeals shall have the power to grant the following variances:

1. A variation in the yard requirements in any district to relieve practical difficulties or particular hardships in cases where, by reason of exceptional narrowness, shallowness or shape of a specific piece of property or by reason of exceptional topographical conditions or other extraordinary or exceptional situations or conditions of such piece of property, the strict application of each regulation or restriction of these Regulations would result in peculiar and exceptional practical difficulties to, or exceptional hardship upon the owner of such property. Such variance shall comply, as nearly as possible, in every respect with the spirit, intent and purpose of these Regulations. The purpose of this provision is to authorize the granting of variation only for reasons of demonstrable and exceptional hardship as distinguished from variations sought by applicants for purposes or reasons of convenience, profit, or caprice. Such variance shall be granted only when public safety and welfare are secured, and substantial justice done.

A request for a variance may be granted upon a finding by the Board of Zoning Appeals that ALL of the following conditions have been met:

- A. The variance requested arises from such condition which is unique to the property in question and which is not ordinarily found in the same zone or district; and is not created by an action or actions of the property owner(s) or of the applicant;
- B. The granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents;
- C. The strict application of the provisions of the zoning regulations of which variance is requested will constitute unnecessary hardship upon the property owner represented in the application;
- D. The variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare, and;
- E. That granting the variance desired will not be opposed to the general spirit and intent of these Regulations.

### **30-104 SPECIAL EXCEPTIONS**

In order to provide for adjustment in the relative locations of uses and buildings of the same or different classifications, to promote the usefulness of these Regulations as an instrument for fact finding, interpretation, application, and adjustment, and to supply the necessary elasticity to its efficient operation, special exceptions are hereby permitted by the terms of this Article. The following buildings and uses are permitted as special exceptions if the Board of Zoning Appeals finds that in its opinion, as a matter of fact, such exceptions will not substantially affect adversely the uses of adjacent and neighboring property permitted by these Regulations:

1. A nonconforming commercial use to extend to the entire lot or a larger portion of the lot where there is now a commercial use on a portion of the lot.
2. A nonconforming commercial use on a lot between two lots which are used commercially.

3. A nonconforming use now existing in any part of a building to be extended vertically or laterally to other portions of the building. In a building now occupied by a nonconforming commercial or industrial use, an additional use of the same classification in the remainder of the building.
4. The extension of an existing nonconforming building and the existing use thereof, upon the lot occupied by such building at the time of the passage of these Regulations; or the erection of an additional building upon the lot owned at the time of the passage of these Regulations by a nonconforming commercial or industrial establishment and which additional building is a part of such establishment.
5. Where a use district boundary line crosses a lot, a use of either classification on the whole lot within 100 feet of said district boundary line.
6. In residential districts “R-1”, “R-1A”, “R-1B”, and “R-1C”, a private garage(s) and/or storage building(s) as an accessory building(s) for more than four motor vehicles and/or covering more than 900 square feet.
7. Off-street parking areas, adjacent to or at a reasonable distance from the premises on which parking areas are required by the parking regulations of these Regulations where practical difficulties, including the acquisition of property, or undue hardships are encountered in locating such parking areas on the premises and where the purpose of these Regulations to relieve congestion in the streets would be best served by permitting such parking off the premises.

### **30-105 SPECIAL YARD AND HEIGHT EXCEPTIONS**

The following special yard exceptions, limited as to location and especially in locations described below in this section, are permitted by these Regulations if the Board of Zoning Appeals finds that in its opinion, as a matter of fact, such exception will not substantially affect adversely the uses of adjacent and neighboring property permitted by these Regulations and provided such exceptions are approved by the Board:

1. An exception in the yard regulations on a lot where, on the adjacent lot, there is a front, side or rear yard that does not conform with the yard regulations.
2. A yard exception on a corner lot, or lots opposite or adjoining permanent open spaces, including parks and playgrounds.
3. An exception in the depth of the rear yard on a lot in a block where there are nonconforming rear yard conditions.
4. An exception where there are irregularities in depths of existing front yards on a street frontage on the side of a street between two intersecting streets, so that any one of the existing depths shall, for a building hereafter constructed or extended, be the required minimum front yard depth.

**30-106 GUIDELINES FOR CONDITIONS**

Where, in these Regulations, special exceptions are permitted, provided they are approved by the Board of Zoning Appeals, where the Board is authorized to decide appeals or approve certain uses, and where the Board is authorized to approve variances, such approval, decision, or authorization shall be limited by such conditions as the case may require, including, if necessary, any of the following specifications:

1. No outside signs or advertising structures except professional or directional signs.
2. Limitations of signs as to size, type, color, location or illumination.
3. Amount, direction, and location of outdoor lighting.
4. Amount and location of off-street parking and loading space.
5. Maintenance requirements including cleaning and painting of buildings, structures or facilities.
6. Type of roof (i.e., gable, flat, etc.).
7. Construction design and type of construction materials to be used.
8. Whether the buildings, if multiple buildings are proposed, can be connected or not.
9. Exit, entrance, door and window locations.
10. The type and amount of paving, landscaping, fencing, screening and other such features.
11. Hours of operation, including limitations on nighttime hours.
12. Limitations on structural alterations to existing buildings.
13. Plans for the control or elimination of smoke, dust, gas, noise or vibration caused by the proposed use.
14. Such other conditions and/or limitations that are deemed necessary.

**30-107 WRITTEN APPLICATION REQUIRED**

Written application for an appeal, a special exception, or a variance referred to in this Article shall be filed with the Board or its agent, upon forms and in a manner prescribed by the Board. Said application shall be submitted within 30 days of the action requiring said appeal, variance or special exception.

**30-108 STAY OF PROCEEDINGS**

Upon the application for an appeal of an order, requirement, decision, or determination made by an administrative official in the enforcement of these Regulations, said appeal shall stay all legal proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies to

the Board, after the application for appeal has been filed with him, that by reason of facts stated in the certificate the stay would, in his opinion, cause imminent peril to life or property. In such case the proceedings shall not be stayed except by a restraining order which may be granted by the Board, or by a court of competent jurisdiction on application, on notice to the Zoning Administrator and on due cause shown.

**30-109 PUBLIC HEARING REQUIRED**

The Board shall hold a public hearing on each application for an appeal, decision, variance or special exception. Applications for a variance or special exception must be accompanied with a certified list of property owners, and their addresses, within 200 feet of the property for which the variance or special exception is being sought. Notice of the time and place of the public hearing shall be published once in the official City or County paper not less than 20 days prior to the date of such public hearing. In addition, all property owners within 200 feet shall be notified by registered mail of such public hearing and be given an opportunity to attend and be heard regarding such application for a variance or special exception.

**30-110 FINDINGS AND RECORDS OF PROCEEDINGS**

The Board of Zoning Appeals shall hold the public hearing at such prescribed time and place and shall make its findings and determinations in writing within a reasonable time from the date of filing of the application, and shall forthwith transmit a copy thereof to the applicant. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, and shall keep records of its examinations and other official actions, which shall be a public record.

**30-111 LAPSE OF SPECIAL EXCEPTIONS OR VARIANCES**

After the Board of Zoning Appeals has approved a special exception or granted a variance, the special exception or variance so approved or granted shall lapse after the expiration of one year if no substantial construction or change of use has taken place in accordance with the plans for which such special exception or variance was granted, and the provisions of these Regulations shall thereafter govern.

**30-112 DECISIONS OF THE BOARD**

In exercising the foregoing powers, the Board of Zoning Appeals, in conformity with the provisions of this Article, may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination, and to that end shall have all the powers of the officer from whom the appeal is taken, may attach appropriate conditions and may issue or direct the issuance of a permit. Any person, official or governmental agency dissatisfied with any order or determination of the Board of Zoning Appeals may bring an action in the District Court of Rush County, Kansas, to determine the reasonableness of any such order or determination.

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**SECTIONS:**

- 31-101 ENFORCEMENT**
- 31-102 BUILDING PERMIT**
- 31-103 APPLICATION FOR BUILDING PERMIT**
- 31-104 FEES**
- 31-105 ISSUANCE OF BUILDING PERMIT**
- 31-106 REVOCATION OF BUILDING PERMIT**
- 31-107 STOP ORDER**
- 31-108 PERIOD OF VALIDITY**
- 31-109 CERTIFICATE OF OCCUPANCY**
- 31-110 REPORTS**
- 31-111 ADMINISTRATIVE PERMIT**
- 31-112 VESTING OF DEVELOPMENT RIGHTS**

**31-101 ENFORCEMENT**

It shall be the duty of the Zoning Administrator to enforce the provisions of these Regulations and to refuse to issue any permit for any building, or for the use of any premises, which would violate any of the provisions of these Regulations. It shall also be the duty of all officers and employees of Rush County and the cities of Bison, LaCrosse, Liebenthal, McCracken, Otis, Rush Center and Timken, Kansas, to assist the Zoning Administrator by reporting any seeming violation in new construction, reconstruction or land use. In case any building is erected, constructed, reconstructed, moved, altered, repaired or converted or any building or land is used in violation of these Regulations, the Zoning Administrator is hereby authorized and directed to institute any appropriate action to put an end to such violation.

**31-102 BUILDING PERMIT**

No building, structure, or addition thereto constructed, built, moved, remodeled or reconstructed after the effective date of these Regulations shall be occupied or used for any purpose; and no land vacant on the effective date of these Regulations shall be used for any other purpose; and no use of any land or structure shall be changed to any other use, unless a building permit shall first be applied for and a Certificate of Occupancy be obtained from the Zoning Administrator certifying that the proposed use or occupancy complies with all the provisions of these Regulations.

**31-103 APPLICATION FOR BUILDING PERMIT**

The application for a building permit shall be made on forms provided by the Zoning Administrator and shall be accompanied by a site plan of the real estate upon which said application is made. Said site plan shall be drawn to scale showing the following items:

1. Legal description of the real estate involved.
2. Location and size of all buildings, structures, yards and open space.
3. Width and length of all entrances and exits to and from said real estate.
4. All adjacent and adjoining roads or highways.



5. Sufficient grades and elevations to establish the proper placement of buildings, adequate sewage disposal systems, the proper drainage of the property, and the applicability of possible floodplains.
6. Location and specifications of all signs, lighting, fencing, screening, landscaping and other such site improvements.

Site plans so furnished shall be filed by the Zoning Administrator and shall become a permanent record. A record of all building permit applications shall be kept on file in the Office of the Zoning Administrator.

### **31-104 FEES**

An application for a building permit shall be accompanied by such fee as shall be officially specified by resolution of the Governing Body from time to time.

### **31-105 ISSUANCE OF BUILDING PERMIT**

A building permit shall be either issued or refused by the Zoning Administrator within 10 working days after the receipt of the application for said building permit, or within such further period as may be agreed to by the applicant. When the Zoning Administrator refuses to issue a building permit, the applicant shall be advised of the reasons for the refusal in writing.

### **31-106 REVOCATION OF BUILDING PERMIT**

A building permit issued in accordance with the provisions of these Regulations may be revoked by the Zoning Administrator if he finds that prior to the completion of the structure for which the building permit was issued there is a departure from the approved plans, specifications and/or requirements or conditions required under the terms of the building permit, or the same was issued under false representation, or that any other provisions of these Regulations are being violated.

### **31-107 STOP ORDER**

Failure, refusal or neglect of any property owner, or his authorized representative, to apply for and secure a valid building permit, including the payment of the prescribed fee, shall be reason for the issuance of a "stop order" by the Zoning Administrator; provided said owner or authorized representative shall have been notified in writing at least 48 hours prior to the issuance of said stop order that he is in violation of regulations of the County or city. Said stop order shall be posted on or near the property in question, in a conspicuous place and no further construction shall proceed. Where such construction has proceeded without filing for and receiving a valid permit, the fee for the issuance of a subsequent building permit shall be quadrupled.

**31-108 PERIOD OF VALIDITY**

A building permit shall become null and void ninety (90) days after the date on which it is issued unless within such ninety (90) day period construction, building, moving, remodeling or reconstruction of a structure is commenced or a Certificate of Occupancy is issued. A building permit shall expire upon issuance of a Certificate of Occupancy as specified herein, or within one (1) year from the date of issuance of the building permit, regardless of the state of completion of the construction authorized by said building permit. Any construction not completed when a building permit expires shall cease and no new construction may commence until such time as a newly issued building permit is issued in conformance with this Article and these Regulations.

**31-109 CERTIFICATE OF OCCUPANCY**

No new or existing building or structure shall be occupied or used, and no change in the character or use of land or of a building shall occur, until a Certificate of Occupancy has been issued by the Zoning Administrator certifying that such building or use complies with all requirements of these Regulations and other applicable city rules and regulations.

**31-110 REPORTS**

The Zoning Administrator shall periodically report in writing to the Governing Body and Planning Commission a summary of all building permits and Certificates of Occupancy issued during the preceding period, giving details of any permitted variations, as well as the current status of all applications in process for amendments, conditional uses, appeals, and variances. Such report shall include comments on any problems encountered in the administration of these Regulations which may need correction by amendment to these Regulations.

**31-111 ADMINISTRATIVE PERMIT**

A manufactured home on an individual lot may be authorized by the Zoning Administrator by issuance of an Administrative Permit on an emergency basis for a period not to exceed six (6) months, on any lot where the permanent dwelling unit has been destroyed by fire, storm or other such calamity and the dwelling unit has been rendered uninhabitable. If the authorization for the emergency placement of such mobile home unit lasts longer than six (6) months, a Special Exception may be granted by the Board of Zoning Appeals for an additional period of time, provided, the procedures for approval of Special Exceptions outlined in Article 26 herein are followed.

**31-112 VESTING OF DEVELOPMENT RIGHTS**

In conformance with the provisions of K.S.A. 12-764, and any subsequent amendments, the following shall apply:

1. The rights of landowners of properties platted or subdivided for residential development shall be protected for use of said land for the intended residential purposes for a period of five (5) years from the time in which such property was first platted or subdivided, provided:
  - A. Verifiable evidence is presented showing the date in which said plat or subdivision of land was first created. Acceptable evidence shall be in one of the following forms:

- 1) signed and sealed certificates or plats of survey from a Registered Land Surveyor showing the several lots proposed to be created, dated and recorded with the Register of Deeds; or,
  - 2) recorded Restrictive or Protective Covenants for the development which describes the individual lots said Covenants are applicable to; or,
  - 3) recorded deeds conveying land; or,
  - 4) recorded Affidavits of Equitable Interest on contracts for deed for said tracts of land.
- B. Within said five (5) year period actual sales occur resulting in separate owners on the tracts of land.
- C. The division of land was legally done in conformance with the then Rush County Subdivision Regulations.
2. Except for lots in a recorded plat, any remaining contiguous tracts of land within the area divided under this rule held in common ownership at the conclusion of said five (5) year period shall be considered an unplatted lot and subsequent divisions of said lot shall be in conformance with the Rush County Subdivision Regulations then in effect.
  3. Properties divided or platted for any use other than agricultural or residential purposes shall not be permitted to develop or further develop except in conformance with these Regulations and the Rush County Subdivision Regulations. Persons who obtain a validly issued permit under any previous rules of Rush County or the cities of Bison, LaCrosse, Liebenthal, McCracken, Otis, Rush Center and Timken shall be permitted to develop the property so long as the permit issued under the previous rules does not expire. Failure to start construction under said permit before the expiration of the permit shall not protect the owner from the provisions of these Regulations or the Rush County Subdivision Regulations then in effect.

**SECTIONS:****32-101 PURPOSE AND INTENT****32-102 SPECIAL EVENT DEFINED****32-103 SPECIAL EVENTS NOT REQUIRING A PERMIT****32-104 SPECIAL EVENTS SUBJECT TO AN ADMINISTRATIVE PERMIT****32-105 SPECIAL EVENTS SUBJECT TO GOVERNING BODY APPROVAL****32-106 APPLICATION AND FEE****32-101 PURPOSE AND INTENT**

The purpose and intent of this Article is to provide for the temporary use of land for special events in a manner consistent with its normal use and beneficial to the general welfare of the public. Furthermore, it is the intent of this Article to protect nearby property owners, residents and businesses from special events which may be disruptive, obnoxious, unsafe or inappropriate given site conditions, traffic patterns, land use characteristics, and the nature of the proposed use. Finally, it is the intent of this Article to preserve the public health, safety and convenience.

**32-102 SPECIAL EVENT DEFINED**

The term "special event" shall mean a temporary, short-term use of land or structures, not otherwise included as a permitted or accessory use by these Regulations, for one or more of the following types of activities:

1. **Type 1.** Fund-raising or non-commercial events for nonprofit religious, educational, or community service organizations; including any on-site signs and structures in conjunction with the event.
2. **Type 2.** Temporary banners attached to the wall of a building or placed across street rights-of-way.
3. **Type 3.** Promotional activities or devices intended to attract attention to a specific place, business, organization, event or district, such as signs, searchlights or balloons.
4. **Type 4.** Commercial activities intended to sell, lease, rent or promote specific merchandise, services or product lines, such as a tent sale, trade show, farmers market, Christmas tree sales, or product demonstration. This type includes special activities such as film productions outdoor play productions and similar type of events.
5. **Type 5.** Public events intended primarily for entertainment or amusement, such as concerts, festivals, carnivals, circuses or parades. In addition, the temporary placement of a portable asphalt plant and attendant materials and equipment during construction work on any public road when such placement is not adjacent to said construction but will be placed within 1 and 1/4 miles of said construction.

The term "special event" shall not include garage sales at an individual residence, transient merchants, or off-site promotional signs.

**32-103 SPECIAL EVENTS NOT REQUIRING A PERMIT**

Special events meeting the Type 1 definition are allowed without a Special Event Permit, provided all of the following performance standards are met:

1. The special event is conducted entirely on private property owned or leased by the sponsoring organization as a permanent facility.
2. Any structure use in conjunction with the special event shall meet all applicable yard setbacks, shall be the subject of a valid building permit, and shall be promptly removed upon cessation of the event.
3. The special event shall be restricted to hours of operation between 6:00 a.m. and 10:00 p.m., to a maximum duration of four (4) days, and to a maximum frequency for similar events of two (2) times per calendar year.

**32-104 SPECIAL EVENTS SUBJECT TO AN ADMINISTRATIVE PERMIT**

Special events meeting the following standards may be issued a Special Event Permit administratively by the Zoning Administrator. In administering the provisions of this section, the Zoning Administrator shall be guided by applicable City policies as adopted by the Governing Body. Any applicant denied a Special Event Permit shall be notified in writing of the reasons for the denial and of the opportunity to appeal the denial to the Governing Body.

1. Special events meeting the Type 2 definition may be permitted administratively by the Zoning Administrator, providing that all of the following performance standards are met:
  - A. An application is made and a fee paid in accordance with Section 32-106.
  - B. No more than one banner will be displayed when attached to the wall of a building.
  - C. The size and design of the banners will be appropriate given the size of the building to which they are attached and the character of the surrounding neighborhood.
  - D. The banner will be displayed for a maximum duration of fifteen (15) days per permit.
2. Special events meeting the Type 3 or Type 4 definition, and Type 1 events not meeting the standards of Section 32-103, may be permitted administratively by the Zoning Administrator subject to the prior review and approval of special arrangements for traffic and crowd control by the Chief of Police and Fire Chief. No such administrative permit shall be issued unless all of the following performance standards are met:
  - A. An application is made and a fee paid in accordance with Section 32-106.
  - B. The special event will not cause undue traffic congestion or accident potential given anticipated attendance and the design of adjacent streets, intersections and traffic controls.

- C. The activity shall not cause the overcrowding of parking facilities given anticipated attendance and the possible reduction in the number of available spaces caused by the event itself.
- D. The special event shall not endanger the public health, safety, or welfare given the nature of the activity, its location on the site, and its relationship to parking and access points.
- E. The special event shall not impair the usefulness, enjoyment or value of adjacent property due to the generation of excessive noise, smoke, odor, glare, litter or visual pollution.
- F. Any structure used in conjunction with the special event shall meet all sight distance requirements, shall be the subject of a valid building permit, and shall be promptly removed upon the cessation of the event.
- G. The special event shall be conducted on private property in a commercial or industrial zoning district, except that nonprofit organizations may conduct events on any property where the property owner has granted the appropriate permission.
- H. The duration and hours of operation of the special event shall be consistent with the intent of the event and the surrounding land uses, but in no case shall the duration exceed ten (10) days.

### **32-105 SPECIAL EVENTS SUBJECT TO GOVERNING BODY APPROVAL**

Any Type 5 special event or special event not meeting the criteria of Sections 32-103 or 32-104 may be granted a Special Event Permit by the Governing Body. Such permit may be subject to such conditions and safeguards as the Governing Body may deem necessary to protect the public health, safety and welfare. These conditions may include, but shall not be limited to:

1. Restrictions on the hours of operation, duration of the event, size of the activity, or other operational characteristic.
2. The posting of a performance bond to help ensure that the operation of the event and the subsequent restoration of the site are conducted according to Governing Body expectations.
3. The provision of traffic control or security personnel to increase the public safety and convenience.
4. Obtaining liability and personal injury insurance in such form and amount as the Governing Body may find necessary to protect the safety and general welfare of the community.

### **32-106 APPLICATION AND FEE**

1. No Special Event Permit shall be issued until an application has been submitted to the Zoning Administrator and the appropriate fee paid. The application shall be made on forms provided by the Zoning Administrator, and shall be accompanied by the following items as applicable:

- A. A letter from the applicant describing the proposed event, the hours of operation, the duration of the event, anticipated attendance, and any structures, signs or attention-attracting devices used in conjunction with the event.
  - B. A sketch plan showing the location of the proposed activities, structures and signs in relation to existing buildings, parking areas, streets and property lines.
  - C. A letter from the property owner or manager, if different from the applicant, agreeing to the special event.
2. Each application for a Special Event Permit shall be accompanied by an application fee. The fee shall be as established by the Governing Body by separate ordinance.
  3. The Special Event Permit shall be posted on the site for the duration of the event.

**SECTIONS:****33-101 WHO MAY PETITION OR APPLY****33-102 PROCEDURES FOR CONSIDERATION OF REQUEST FOR AMENDMENTS, REVISIONS OR CHANGES****33-103 POSTING OF SIGN****33-104 TRAFFIC AND/OR OTHER STUDIES****33-105 FACTORS TO BE CONSIDERED****33-106 LIMITATIONS ON REAPPLICATION FOR AMENDMENTS****33-101 WHO MAY PETITION OR APPLY**

Applications for amendments, revisions or changes in the Zoning District Boundary Map in effect for Rush County and the cities of Bison, LaCrosse, Liebenthal, McCracken, Otis, Rush Center and Timken, Kansas, or for a Conditional Use Permit, may be made by any person who owns the land for which such an amendment, revision, change or conditional use permit is sought, or by the owner's agent as defined by these Regulations. If such application is made by the owner's agent, said agent shall enter upon the application the name and current mailing address of the owner and shall submit written authorization to act as agent for said owner prior to any public hearing.

Recommendations for amendments, revisions or changes to the Zoning Code or the Zoning District Boundary Map may also be made by the Rush County Joint Planning Commission upon its own motion, for final determination by the Governing Body; likewise the Governing Body may amend the Zoning Regulations or the Zoning District Boundary Map upon its own motion; provided, however, such proposed amendments shall first be submitted to the Rush County Joint Planning Commission for recommendation and report as provided herein.

**33-102 PROCEDURES FOR CONSIDERATION OF REQUEST FOR AMENDMENTS, REVISIONS OR CHANGES**

All applications or requests for amendments, revisions or changes to the Zoning Regulations or the Zoning District Boundary Map or for a Conditional Use Permit shall be made to the Zoning Administrator on such forms as provided and acceptable to the Zoning Administrator and the payment of the application fee established by the Governing Body. Immediately upon receipt of an application for rezoning or conditional use by the owner of a particular tract of land, or his agent, and the payment of the appropriate fee, the Zoning Administrator shall note thereon the date of filing and make a permanent record thereof. All such applications shall be set down for hearing not later than 60 days after receipt of a completed application. Notice of such hearing shall be published once in the official City or County newspaper at least 20 days prior to the date set for said hearing and a hearing shall be granted to any person at the time and place specified in such notice.

If the proposed change is not a general revision of the existing regulations but affects specific property, then in addition to the publication notice, notice of such proposed hearing shall be mailed to all the owners of land located within 200 feet of the area proposed to be altered at least 10 days prior to the hearing, thus providing an opportunity to all interested parties to be heard. If the proposed amendment is for property adjacent to the city limits or is located outside the city's limits, the area of notification shall extend to at least 1,000 feet into the unincorporated area. Such notice shall be given by regular first class mail, and shall be in the form of a letter explaining the proposed



change. Such mailed notices shall be addressed to the owners of land mentioned above and not to occupants of such lands.

The applicant shall provide a certified list of the owners of said lands at the time of the filing of the application. The applicant shall furnish proof that he is the owner, the owner's agent, or has an option to buy the land described in the application, in which case the present owner must consent in writing to the application prior to the public hearing.

In the case of an application to amend, revise or change the Zoning Code, whether by the Rush County Joint Planning Commission or the Governing Body, all the above stated requirements shall be followed except:

1. No fee shall be required since the request is from the Rush County Joint Planning Commission or the Governing Body.
2. Notice of the public hearing is not required to be mailed to anyone; therefore, a certified list of the owners of land shall not be required.

For action on zoning amendments by the Rush County Joint Planning Commission, the Bylaws of the Rush County Joint Planning Commission shall govern said actions with respect to quorums, voting procedures, hearing procedures, and the like. The Rush County Joint Planning Commission shall submit its first recommendation, in whatever form, no later than 3 months after the first public hearing, unless an extension of time is agreed to by the applicant.

Actions of the Governing Body on recommendations submitted to it by the Rush County Joint Planning Commission shall be taken in conformance with the provisions of K.S.A. 12-757, and amendments thereto. This shall include actions subject to protest petitions.

If the zoning amendment shall affect the boundaries of any zone or district, the ordinance of the Governing Body shall define the change or the boundary as amended, shall order the official map to be changed to reflect such amendment and shall reincorporate such map as amended.

### **33-103 POSTING OF SIGN**

Each applicant for a rezoning and each applicant for a Conditional Use Permit shall, within 48 hours of filing such application, place a sign upon the lot, tract or parcel of land for which the application was filed. Said sign shall be furnished by the Zoning Administrator to the applicant and the applicant shall firmly affix and attach the sign to a wood or metal backing or frame and place the sign as hereinafter set forth.

Said sign shall be maintained and kept in place by the applicant until final disposition of such application, or until withdrawal of the application. The sign shall be removed by the applicant after final action on the application.

The bottom of said sign shall be a minimum of two (2) feet above the ground line. Said sign shall be placed within five (5) feet of the street right-of-way line, in a position on such lot, tract or parcel of land as to have no visual obstructions thereto and to be readily seen by passersby. If the lot, tract or parcel of land has more than one (1) street abutting thereto, signs shall be placed facing both streets.

Failure to comply with this requirement shall not deprive the Rush County Joint Planning Commission of its jurisdiction or affect any decision, but may be due cause for the Rush County Joint Planning Commission to refuse to hear the application or to adjourn the hearing or to require further notice. Any such hearing may, for good cause at the request of the applicant, or in the discretion of the Rush County Joint Planning Commission, be continued.

### **33-104 TRAFFIC AND/OR OTHER STUDIES**

In the case of an application for rezoning of land or for a Conditional Use Permit for a use which may, in the opinion of the Rush County Joint Planning Commission or Governing Body, substantially change traffic patterns, create traffic congestion, and/or have a perceived impact on the community of such magnitude warranting special study, either the Rush County Joint Planning Commission or Governing Body may require that the applicant procure the services of a competent professional consultant or expert for the purpose of preparing such traffic and/or other studies deemed necessary.

A traffic study must address how the traffic generated by the proposed development will be handled on the site; how vehicular ingress and egress from the site onto public streets will function; and, show that no undue burden will be placed upon the existing public street system. The study shall include recommendations of the on-site and off-site improvements necessary to achieve appropriate levels of traffic safety.

The other studies shall address the substance of the concern and/or impacts and shall identify the extent of such impacts and any and all mitigation remedies possible to lessen those impacts on the neighborhood and/or citizens and taxpayers of Rush County and the cities of Bison, LaCrosse, Liebenthal, McCracken, Otis, Rush Center and Timken, Kansas.

The results of the traffic study and/or other studies shall be used in determining the impact of the proposed rezoning or conditional use permit and guide the development of a recommendation or decision regarding the same, including requirements of construction and/or installation of the recommended improvements outlined with the traffic study.

### **33-105 FACTORS TO BE CONSIDERED**

1. When a proposed amendment would result in a change of the zoning classification of any specific property, the recommendation of the Rush County Joint Planning Commission, accompanied by a copy of the record of the hearing, shall contain statements as to the present classification, the classification under the proposed amendment, the reasons for seeking such reclassification, a summary of the facts presented, and a statement of the factors upon which the recommendation of the Rush County Joint Planning Commission is based using the following guidelines:
  - A. Whether the change in classification would be consistent with the intent and purpose of these Regulations;
  - B. The character and condition of the surrounding neighborhood and its effect on the proposed change;

- C. Whether the proposed amendment is made necessary because of changed or changing conditions in the area affected, and, if so, the nature of such changed or changing conditions;
  - D. The current zoning and uses of nearby properties, and the effect on existing nearby land uses upon such a change in classification;
  - E. Whether every use that would be permitted on the property as reclassified would be compatible with the uses permitted on other property in the immediate vicinity;
  - F. The suitability of the applicant's property for the uses to which it has been restricted;
  - G. The length of time the subject property has remained vacant or undeveloped as zoned;
  - H. Whether adequate sewer and water facilities, and all other needed public services including transportation, exist or can be provided to serve the uses that would be permitted on the property if it were reclassified;
  - I. The general amount of vacant land that currently has the same zoning classification proposed for the subject property, particularly in the vicinity of the subject property, and any special circumstances that make a substantial part of such vacant land available or not available for development;
  - J. The recommendations of permanent or professional staff;
  - K. Whether the proposed amendment would be in conformance to and further enhance the implementation of the Comprehensive Plan;
  - L. Whether the relative gain to the public health, safety, and general welfare outweighs the hardship imposed upon the applicant by not upgrading the value of the property by such a reclassification; and,
  - M. Such other factors as may be relevant from the facts and evidence presented in the application.
2. Because of particular conditions associated with their activities, certain uses which might have an adverse effect upon nearby properties or upon the character and future development of a district are not permitted outright in districts, but are permitted as Conditional Uses when their proposed location is supplemented by additional requirements so as to make the use requested compatible with the surrounding property, the neighborhood and the zoning jurisdiction.

In approving a Conditional Use, the minimum requirements of approval for all similar types of permitted uses in the same district must be met unless otherwise reduced by specific reference in the recommendation of the Rush County Joint Planning Commission or the approval of the Governing Body. The requirements may be made more stringent if there is potentially injurious effects which may be anticipated upon other property and the neighborhood or contrary to the welfare and convenience of the public.

The Rush County Joint Planning Commission may recommend approval of a Conditional Use, and the Governing Body may approve such Conditional Use, using the following factors as guidelines:

- A. Whether approval of the Conditional Use would be consistent with the intent and purpose of these Regulations;
- B. Whether the location of the proposed use is compatible to other land uses in the surrounding neighborhood;
- C. Whether the proposed use places an undue burden on the existing transportation and service facilities in the area affected and, if so, whether such additional transportation and service facilities can be provided;
- D. Whether the proposed use is made necessary or desirable because of changed or changing conditions in the area affected;
- E. The length of time the subject property has remained vacant or undeveloped as zoned;
- F. Whether the applicant's property is suitable for the proposed use;
- G. The recommendations of permanent or professional staff;
- H. Whether the proposed Conditional Use would be in conformance to and further enhance the implementation of the Comprehensive Plan;
- I. Whether the relative gain to the public health, safety, and general welfare outweighs the hardship imposed on the applicant by not upgrading the value of the property by approving the proposed Conditional Use; and,
- J. Whether the proposed Conditional Use, if it complies with all the conditions upon which the approval is made contingent (as authorized in Article 26 of these Regulations), will not adversely affect the property in the area affected.
- K. Such other factors as may be relevant from the facts and evidence presented in the application.

### **33-106 LIMITATIONS ON REAPPLICATION FOR AMENDMENTS**

Whenever an application for amendment, supplement, change, rezoning or conditional use permit has been denied by the Governing Body or withdrawn after newspaper publication notice for public hearing, such application or one substantially similar shall not be reconsidered sooner than one (1) year after said denial or from the date the application was withdrawn. The Governing Body may waive the limitation for good cause if there is a substantial change in the application as proposed. All requests for waiver of the limitation shall be made in writing, stating the basis for the request and the change that is felt to warrant such waiver, at least fourteen (14) days prior to the meeting of the Governing Body at which such request is to be heard. If the request is granted, then the application shall begin again as a new request and meet all requirements of these Regulations for hearing.

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**SECTIONS:**

**34-101 INTERPRETATION AND CONFLICT**

**34-102 REMEDIES AVAILABLE**

**34-103 PENALTY**

**34-101 INTERPRETATION AND CONFLICT**

In interpreting and applying the provisions of these Regulations, they shall be held to be the minimum requirements for the promotion of the public health, safety, convenience, comfort, prosperity, or general welfare. It is not intended by these Regulations to interfere with, or abrogate or annul any easements, covenants or other agreement between parties; provided, however, that where these Regulations impose a greater restriction upon the use of buildings or premises or upon height of buildings, or requires larger open spaces than are imposed or required by other rules, regulations, or by easements, covenants, or agreements, the provisions of these Regulations shall govern. If any property is not given a zoning classification on the Zoning District Boundary Map because of error or omission, such property shall be classified "A" Agricultural within the unincorporated portion of Rush County or "R-1A" Single-Family Residential within the cities of Bison, LaCrosse, Liebenthal, McCracken, Otis, Rush Center and Timken until changed by amendment, unless authorized by these Regulations.

**34-102 REMEDIES AVAILABLE**

In case any building or structure is or is proposed to be erected, constructed, reconstructed, moved, altered, converted, or maintained, or any building, structure, or land is or is proposed to be used in violation of these Regulations, the Zoning Administrator, County Attorney, City Attorney, or other appropriate authority of Rush County or the cities of Bison, LaCrosse, Liebenthal, McCracken, Otis, Rush Center and Timken, Kansas, may, in addition to all other remedies, institute injunction, mandamus, or other appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, relocation, alteration, conversion, maintenance, or use, or to correct or abate such violation, or to prevent the occupancy of a building, structure or land.

**34-103 PENALTY**

Any person or corporation who shall violate any of the provisions of these Regulations or fail to comply herewith, or with any of the requirements thereof; or who shall build or alter any building in violation of any detailed statement or plan submitted and approved hereunder shall be guilty of a misdemeanor and, upon conviction thereof, shall be liable to a fine of not more than five hundred dollars (\$500.00) and each day such violation shall be permitted to exist shall constitute a separate offense. The owner of any building or premises or part thereof, where anything in violation of these Regulations shall be placed, or shall exist, and any architect, builder, contractor, agent, person, or corporation employed in connection therewith, and who assisted in the commission of any such violation, shall be guilty of a separate offense and upon conviction thereof shall be subject to the same fine as hereinbefore provided.

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**SECTIONS:****35-101 VALIDITY****35-102 ACCRUED RIGHTS AND LIABILITIES SAVED****35-103 SEVERABILITY****35-104 EFFECTIVE DATE****35-105 REPEALING CLAUSE****35-101 VALIDITY**

If any section, paragraph, subdivision, clause, phrase, or provision of these Regulations shall be adjudged invalid or held unconstitutional the same shall not effect the validity of these Regulations as a whole or any part or provision thereof, other than the part so decided to be invalid or unconstitutional. All regulations or parts of regulations in conflict herewith are hereby repealed.

**35-102 ACCRUED RIGHTS AND LIABILITIES SAVED**

The repeal of the existing Zoning Regulations provided in Section 35-105 herein shall not affect any rights accrued, fines, penalties, forfeitures, or liabilities incurred thereunder, or actions involving any of the provisions of said Regulations or parts thereof. Said Regulations below repealed are hereby continued in force and effect, after the passage, approval and publication of these Regulations, for the purpose of such rights, fines, penalties, forfeitures, liabilities and actions thereof.

**35-103 SEVERABILITY**

Each article, section and subdivision or a section of these Regulations are hereby declared to be independent of every other article, section, or subdivision or section, so far as inducement for the passage of these Regulations is concerned.

**35-104 EFFECTIVE DATE**

These Regulations, being designated as the "Zoning Regulations of Rush County, Kansas," shall be in full force and effect from and after its passage and publication in accordance with K.S.A. 12-3301, et seq, by Rush County and from and after its passage and publication in accordance with K.S.A. 12-3009 through 12-3012 by the cities of Bison, LaCrosse, Liebenthal, McCracken, Otis, Rush Center and Timken, Kansas.

**35-105 REPEALING CLAUSE**

Where applicable, these Regulations repeal the existing Zoning Regulations of Rush County and the cities of Bison, LaCrosse, Liebenthal, McCracken, Otis, Rush Center and Timken, Kansas, in its entirety.