

ARTICLE 1 REGULATIONS

TITLE, PURPOSE, DEFINITIONS, DISTRICT AND GENERAL

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1-101 Title and Authority: These regulations, including the Zoning District maps and overlays made a part thereof, shall be known and may be cited as the "Zoning Regulations of Marion County, Kansas", and shall hereinafter be referred to as "these Regulations." Except where otherwise indicated, these Regulations were prepared and are adopted under the authority granted to Marion County by K.S.A. 12-741 et seq., and amendments thereto.

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 citizens of Marion County, Kansas.
2. To create a variety of zoning districts sensitive to the peculiarities of the various permitted uses and designed to protect and enhance the values inherent in each zone; while encouraging the redevelopment and revitalization of the cities within the County.
3. To conserve prime agricultural land and protect it from the intrusion of incompatible uses, but not to regulate or restrict the primary use of land for agricultural uses.
4. To regulate and restrict the height, number of stories, and size of buildings; the percentage of lots that may be occupied by buildings and other structures; size of yards, courts, and other open spaces in the interests of all citizens of Marion County, Kansas.
5. To provide for adequate light and air, and acceptable noise levels.
6. To avoid the undue concentration of populations and to prevent overcrowding in the use of land and community facilities.
7. To provide adequate notice on subsequent changes to these regulations and an opportunity for interested parties to be heard.
8. To provide information regarding possible flood hazards.
9. To facilitate the adequate provisions of transportation, water, sewage, schools, parks, and other public improvements and services, and to carry out the goals and objectives as set forth in applicable laws of the State of Kansas and the Comprehensive Plan for Marion County, Kansas.
10. To promote the achievement of the Future Land Use Plan for Marion County, Kansas.
11. To inform the public regarding future development in Marion County, Kansas, thereby providing a basis for wise decisions with respect to such development.

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12. To manage growth and promote economic development to the benefit of the citizens of Marion County, Kansas.

1-103 Jurisdiction: These Regulations shall apply to all lands within Marion County, Kansas, lying outside the corporate limits of any incorporated city.

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. **ABATEMENT:** As related to waste tires, means the processing or removing to an approved storage site of waste tires which are creating a danger or nuisance.
3. **ABUTTING:** Adjoining or bordering.
4. **ACCESS:** The right to cross between public and private property allowing pedestrians and vehicles to enter and leave property.
5. **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. On properties zoned other than Agricultural, and especially on properties zoned Rural Residential and Suburban Residential, agricultural buildings shall be considered an accessory building.
6. **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. On properties zoned other than Agricultural, and especially on properties zoned Rural Residential and Suburban Residential, agricultural uses shall be considered an accessory use.
7. **ADMINISTRATIVE OFFICER:** See Zoning Administrator.
8. **ADULT ENTERTAINMENT ESTABLISHMENT:** Any business, premises or establishment including, without limitation, adult bookstores, adult video stores, adult motion picture theaters, adult mini-motion picture theaters, adult cabarets, adult live performance theaters which complies with the Conditional Use Permit requirements of these regulations.

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- 9. AGRICULTURAL PURPOSES, LAND USED FOR:** The use of a tract of land for the production of plants, animals or horticultural products, including but not limited to: Forages; grains and feed crops; dairy animals and dairy products; beef cattle, sheep, 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/or 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. Wholesale or retail sales as an accessory use unless the same are permitted by these Regulations.
 - d. The operation or maintenance of greenhouses, nurseries or hydroponic farms operated at retail.
 - e. The operation of a riding stable, as defined in these Regulations.
 - f. The operation of an auction sales yard.
 - g. The operation of a junk yard.
 - h. The operation or maintenance of a commercial stockyard, feedlot or other confined animal feeding operation.
 - i. The operation of a boarding or breeder kennel, as defined herein.
 - j. The keeping of exotic birds and/or animals.
 - k. The operation of an airport or landing strip.
 - l. Quarrying or mining activities, even though the reclamation of same may be for water impoundments that support agricultural activities.
 - m. The placement and/or use of a manufactured home, mobile home, travel trailer, semi-trailer, shipping container, or any other structure originally built other purposes, for any use including storage or keeping of agricultural products or animals.
- 10. 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.

11. **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 whether owned publicly or privately. Private airstrips or landing fields means those which are available for use by the owner only or by the owner and other persons authorized by the owner.
12. **ALLEY:** A public or private thoroughfare which provides only a secondary means of access to abutting property.
13. **ALTERATION:** A change or rearrangement in the structural parts of an existing building or structure. Enlargement or other adjustment to a building, whether by extending a side, increasing the height, or the moving from one location or position to another, shall be considered as an alteration.
14. **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. The approval of a Conditional Use Permit as provided within these Regulations.
 - d. A change in the maps, i.e., the zoning designation of a particular parcel or parcels. This form is also known as "rezoning."
15. **AMUSEMENT ARCADE:** A commercially operated business that provides various devices for entertainment and may also provide food and non-alcoholic beverages for consumption on the premises.
16. **ANIMAL HOSPITAL OR CLINIC:** An establishment where animals are admitted principally for examination, treatment, board or care by a Doctor of Veterinary Medicine. This does not include open kennels or runs.
17. **APARTMENT:** A room or a suite of rooms within an apartment house or complex arranged, intended or designed for a place of residence of a family.
18. **APARTMENT HOUSE:** A building or buildings containing apartments used as a place of residence for more than two (2) families.
19. **APPLICANT:** The owner of a tract of land, or his duly designated representative, for which an amendment has been requested. Consent shall be required from the record owner of the premises if the applicant is other than the owner.
20. **ASSISTED LIVING:** Multifamily dwelling units used or designed to be used by older persons, persons with disabilities or other persons needing or desiring assistance with day-to-day living matters, but not including group homes, group housing, hospitals or convalescent care facilities. Typical uses include retirement communities in which housekeeping services, common dining facilities and recreational and social activities are offered to residents.

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21. **ATTENDANT CARE FACILITY:** A facility licensed by the State of Kansas as a non-secure care not to exceed 24 hours excluding weekends and holidays for children 10 years of age and older, or as defined by the state child care regulatory agency.
 22. **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.
 23. **AUTOMOTIVE AND MACHINERY REPAIR SHOPS:** A building used for the repair of motor vehicles or machinery. This shall include, but not be limited to, body and paint shops, glass service shops and auto service centers.
 24. **AUTOMOTIVE SALES AREA:** An open area, other than a street, used for display or sale of new or used motor vehicles, and where no repair work is done except minor incidental repair of motor vehicles to be displayed and sold on the premises.
 25. **AUTOMOTIVE SERVICE STATION:** Any building, structure or land used for the dispensing, sale or offering for sale at retail any motor vehicle fuels, oils, or accessories, including lubrication of motor vehicles and replacement or installation of minor parts and accessories, but not including tire recapping, major repair work such as motor replacement, body and fender repair or spray painting, provision of rental equipment, or open motor vehicle sales lots.
 26. **BABY-SITTER:** Any person who provides care for six (6) or less children unrelated to the operator(s), whether with or without compensation, and whether or not registered with the State of Kansas.
 27. **BASEMENT:** The lowermost portion of a structure partly or wholly below ground level. The term shall not include berm homes or other similar structures.
 28. **BED AND BREAKFAST:** A family home, occupied as a permanent dwelling by the proprietor, in which lodging and meals are provided for time-limited durations to not more than four groups of patrons in a 24-hour period.
 29. **BOARD OF ZONING APPEALS:** That board created herein which has the statutory authority to hear and determine appeals, exceptions and variances to these Regulations.
 30. **BOARDING OR ROOMING HOUSE:** A dwelling in which roomers, lodgers and/or boarders are housed but individual cooking facilities are not provided.
 31. **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.
 32. **BUILDABLE WIDTH:** The width of that part of a lot not included within any required open space.
 33. **BUILDING:** Any site-built structure built for the support, shelter, or enclosure of persons, animals, chattels or movable property of any kind, and which is affixed to the land, exclusive of fences.
 34. **BUILDING, COMMUNITY:** A building used for noncommercial social, educational, or recreational activities of a neighborhood or community.
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35. **BUILDING, COMPLETELY ENCLOSED:** Any building having no outside openings other than ordinary doors, windows and ventilators.
 36. **BUILDING HEIGHT:** The vertical distance from the established grade to the highest point on the roof or parapet wall.
 37. **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.
 38. **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 main or principal building on the plot on which it is located.
 39. **BUILDING, PUBLIC:** A publicly-owned building used or occupied for a public purpose. Public buildings include, but are not limited to: fire stations, police stations, auditoriums, gymnasiums, natatoriums, community halls, maintenance buildings, park shelters, jails or penal institutions, and schools. This shall include privately owned buildings used for the same public-type purposes.
 40. **BULKY WASTE:** Discarded or stored inoperative household appliances, disused furniture, disused equipment, junk lumber and other building debris, parts of machinery and equipment, and similar waste not ordinarily collected with compactor equipment; provided that bulky waste shall not mean abandoned or inoperable vehicles in whole or in part.
 41. **CAMP:** Any plot, including its area of land and/or water, on which are located cabins, shelters, houseboats or other accommodations of the design or character suitable for seasonal or other more or less temporary living purposes; but not including a day camp, trailer camp, rooming house, tourist home, hotel, summer colony, hospital, place of detention, school of general instruction, or nursery school.
 42. **CAMPER TRAILER (Pop Up):** A structure designed to provide temporary living quarters for recreational, camping or travel use, constructed with integral wheels to make it mobile and/or towable by a motor vehicle, not to exceed 24 feet in length and 5 feet 6 inches in height in a collapsed condition.
 43. **CAMPING BUS:** A self-propelled vehicle originally designed and built as a bus, which has been redesigned with or converted into a portable dwelling used for recreation.
 44. **CANOPY:** Any structure, movable or stationary, attached to and deriving its support from framework, posts or other means independent of a connected structure for the purpose of shielding a platform, stoop or sidewalk from the elements; or a roof-like structure of a permanent nature which projects from the wall of a structure and overhangs the public way.
 45. **CAR WASH:** An establishment having facilities designed or used exclusively for washing or cleaning motor vehicles.
 46. **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.
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47. **CERTIFICATE OF OCCUPANCY:** A document signed by the Zoning Administrator which acknowledges that a use, structure, building or lot is completed and ready for occupancy based on the information submitted with the application for a Zoning Certificate.
48. **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, or as defined by the state child care regulatory agency.
49. **CHILD PLACEMENT AGENCY:** A social service agency licensed by the State of Kansas which receives children for services including placement in residential programs or in foster family homes, or for adoption; or as defined by the state child care licensing agency.
50. **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, assembly rooms, kitchen, recreational facilities and/or library.
51. **CIRCUS AND/OR CARNIVAL:** A temporary outdoor amusement center, bazaar or fair, either involving use of special purpose equipment or conducted by professional operators, or both, and where activities include such things as rides, exhibitions, food services, sales, or small scale games.
52. **CLEAR VIEW:** A range of sight beyond any point on a street or entering a street right-of-way where clear, unobstructed sight is required (see also Sight Triangle). The following requirements shall be referenced when designing and review roadway plans:
- A. On streets with reverse curves, a reasonable tangent shall be provided between curves to permit a smooth flow of traffic.
 - B. Where there is a deflection angle of more than ten degrees (10°) in the alignment of a street, a curve with a radius adequate to ensure safe sight distance shall be made.
 - C. Every change in grade shall be connected by a vertical curve constructed to afford the minimum required site stopping distance in conformance with accepted engineering standards. Said site stopping distance shall be measured from a driver's eye level that is assumed to be three and one half ($3\frac{1}{2}$) feet above the pavement surface, to an object six (6) inches high on the pavement.
53. **CLINIC:** A building designed and used for the medical, dental or surgical diagnosis or treatment of patients under the care of doctors, nurses and/or other licensed medical professionals, with no overnight boarding.
54. **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.
55. **CLUB, MEMBERSHIP:** Membership 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, including private clubs operating under the above statutes.

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56. **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.
 57. **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.
 58. **COMMUNICATION TOWER:** Commercial AM/FM radio, television, microwave and cellular telephone transmission towers, electronic emission of any wave length and accessory equipment and buildings.
 59. **COMPREHENSIVE PLAN:** The current Comprehensive Plan for the unincorporated portion of Marion County, Kansas, and amendments thereto. adopted by the Planning Commission and co-adopted by the County Commission which, through a combination of text, charts and maps, sets forth data and establishes policies for general locations of various land uses, including streets, parks, schools, public buildings, utilities; and related uses, such as the utilization and preservation of natural resources.
 60. **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.
 61. **CONDITIONAL USE PERMIT:** A written document of certification issued by the Zoning Administrator permitting the construction, alteration or establishment of a Conditional Use.
 62. **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.
 63. **CONSTRUCTION/DEMOLITION LANDFILL:** A permitted solid waste disposal area used exclusively for the disposal on land of construction and/or demolition waste.
 64. **CONSTRUCTION/DEMOLITION WASTE:** Waste building materials and rubble resulting from construction, remodeling, repair or demolition operations on houses, commercial buildings, other structures, pavements, curbing, bridges, and trees and brush; but not asbestos or other hazardous materials.
 65. **COUNTY:** The Board of County Commissioners of Marion County, Kansas, or its delegated staff, boards or agencies.
 66. **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.
 67. **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.
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68. **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.
 69. **COUNTY HEALTH OFFICER:** The Administrator of the County Health Department, or such person designated by the Board of County Commissioners to administer the Health Regulations of the County or the State of Kansas.
 70. **COURT:** An unobstructed open area bounded on three or more sides by the walls of a building or buildings; an **OUTER COURT** extends to a street or yard, and an **INNER COURT** does not.
 71. **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.
 72. **DENSITY:** The average number of dwelling units per acre of land, expressed in terms of "per acre." (Example: 300 dwelling units occupying 40 acres of land is 7.5 units per acre.)
 73. **DETENTION CENTER:** A secure public or private facility licensed by the State of Kansas, designed specifically for children who require secure custody and which provides temporary living accommodations for alleged delinquent, miscreant, wayward, truant or deprived children, accused or adjudicated juvenile offenders under 16 years of age pending court disposition or placement in an appropriate program, or as defined by the state child care regulatory agency.
 74. **DISTANCE:** Horizontal distances unless otherwise designated.
 75. **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.
 76. **DOG:** Any canine specie over one (1) year of age.
 77. **DRINKING ESTABLISHMENT:** A premises, which may be open to the general public, where alcoholic liquor by the individual drink is served.
 78. **DRIVE-IN ESTABLISHMENT:** An enterprise which accommodates the patrons automobile and from which occupants of the automobile may make purchases, transact business or view motion pictures or other entertainment.
 79. **DRIVE-THROUGH ESTABLISHMENT:** Any restaurant, financial institution, or product vending enterprise where the patron does not necessarily enter and remain within a building during the transaction of his business. Food vending establishments where the food is not normally consumed within a building or where facilities are provided for eating outside a building are included in this definition.
 80. **DRIVEWAY:** A minor private roadway providing access for vehicles to a single lot, parking space, garage, barn, dwelling, or other structure.
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81. **DWELLING:** Any building, or portion thereof, designed or used primarily for residential purposes, including residential-design manufactured homes and modular homes.
 82. **DWELLING, MULTI-FAMILY:** A building or portion thereof, arranged, intended or designed for occupancy by three or more families.
 83. **DWELLING, SEASONAL:** A residence intended for occasional, but not permanent, occupancy.
 84. **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.
 85. **DWELLING, TWO-FAMILY:** A building or portion thereof, arranged, intended or designed for occupancy by two families.
 86. **DWELLING UNIT:** A building, or part thereof, containing complete housekeeping facilities for one family.
 87. **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.
 88. **EFFICIENCY UNIT:** A dwelling unit, constructed as a part of a residential complex, having a living area of at least 220 square feet; an additional 100 square feet of living area for each occupant of such unit in excess of two (2); a separate closet; a separate bathroom containing a water closet, lavatory and bathtub or shower; and, a kitchen sink, cooking appliance and refrigeration facilities, each having a clear working space of not less than 30 inches in front.
 89. **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.
 90. **EXOTIC BIRDS OR ANIMALS:** Birds or animals not commonly kept domestically or that are not native to Marion 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, alpacas and buffalo shall not be considered as exotic birds or animals.
 91. **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.
 92. **FAMILY FOSTER HOME:** A facility licensed by the State of Kansas for the twenty-four (24) hour care of four (4) or less children between the ages of infancy to 16 years of age and unrelated to the operator(s), or as defined by the state child care regulatory agency. Children in foster care have been found by the Court to be in need of care.
 93. **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
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- retail sale.
94. **FEED LOT, COMMERCIAL:** A livestock feedlot or feedyard as defined by K.S.A. 65-171D et seq, licensed by and operated under standards regulated by Kansas Department of Health and Environment and the Environmental Protection Agency, as a commercial operation over 1,000 animal units and requiring federal permits.
95. **FENCE:** An enclosure or barrier constructed of posts, supports, boards, wires, stakes, bricks, stones or rails that impairs the visibility and wind flow.
96. **FENCE HEIGHT:** The vertical distance measured from the side of the fence that is exterior to the property or from the lowest adjacent ground level to the top of the fence material. In the case of wire fencing, height shall be measured by the width of the material used, providing that when installed, the material is directly adjacent to the ground level.
97. **FLOODPLAIN:** See Article 12.
98. **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.
99. **FOOTPRINT:** The horizontal area as seen in plan, measured from outside of all exterior walls and supporting columns. It includes residences, garages, covered carports, patios, decks, balconies, and accessory structures.
100. **FOSTER HOME:** A facility licensed by the State of Kansas for the care of four (4) or less persons unrelated to the operator(s).
101. **FOUNDATION, PERMANENT:** A site-built foundation, with or without basement, that meets or exceeds the foundation requirements of the 2006 Edition of the International Code Council (ICC) International One and Two Family Building Code, that portion of which is incorporated by reference herein.
102. **FRONT:** The part or side of any building or structure facing the street or frontage road.
103. **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.
104. **GARAGE, PRIVATE:** An accessory building designed or used for the storage of motor vehicles owned and used by the occupants of the building to which it is accessory.
105. **GARAGE, PUBLIC:** A building, or portion thereof, other than a private garage, designed or used for equipping, repairing, hiring, servicing, selling or storing motor vehicles.
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- 106. GARAGE, STORAGE:** A building, or portion thereof, designed or used exclusively for housing motor vehicles, other than trucks and commercial vehicles, pursuant to previous contract or arrangement.
- 107. GARDEN APARTMENT BUILDING:** An apartment building located on a lot either singly or together with other similar apartment buildings, such buildings generally being one or two stories in height and having grounds completely landscaped.
- 108. GOVERNING BODY:** The Board of County Commissioners of Marion County, Kansas.
- 109. GREENHOUSE:** A translucent enclosure used for the cultivation or protection of tender plants.
- 110. GROUP BOARDING HOME OR RESIDENTIAL CENTER FOR CHILDREN:** A facility licensed by the State of Kansas to provide twenty-four (24) hour non-secure care for not less than five (5) nor more than ten (10) persons between the ages or infancy to 16 years of age, or as defined by the state child care regulatory agency.
- 111. GROUP DAY CARE HOME:** A facility licensed by the State of Kansas for the care of a maximum of twelve (12) children under sixteen (16) years of age, and a limited number of children under Kindergarten age, or as defined by the state child care regulatory agency.
- 112. 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:

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

- A. A physical or mental impairment which substantially limits one or more of such person's major life activities;
- B. A record of having such an impairment; or,
- C. 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). Such terms also shall not include half-way homes, homes for parolees, persons released for sex crimes, or any other facility for the placement of persons convicted or felonies in a residential setting.

- 113. GUEST HOUSE:** Living quarters within a detached accessory building located on the same premises as the principle or main residential building for use by temporary guests of the occupants of the premises and which shall not be used as a boarding house, bed and breakfast, or other similar use in which guests pay for their stay. Said living quarters shall not have separate utility services from the principle or main residential building; nor shall it be a building or structure that is larger in size than the principle building or structure, which is the single-family dwelling.
- 114. HAULING TRAILER:** A light-duty utility trailer intended for residential use, including open-bed

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- small trailers designed to be towed behind a car or truck.
115. **HAZARDOUS WASTE:** Any waste meeting the definition of K.S.A. 65-3430 and amendments thereto.
116. **HAZARDOUS WASTE DISPOSAL FACILITY:** Any facility which meets the requirements as defined in K.S.A. 65-3430, as amended.
117. **HIGHWAY:** A road or street designated as a highway by an appropriate local, state or federal agency.
118. **HIGHWAY, LIMITED ACCESS:** A freeway or expressway providing for through traffic in respect to which owners or occupants of abutting property or lands and other persons have no legal right of access to or from the same, except at such points and in such manner as may be determined by the public authority having jurisdiction over such trafficway.
119. **HOBBY ACTIVITY:** A non-commercial craft or assembly activity of lesser scale than a home occupation; and which is subordinate to the residential use of a dwelling or commercial use of a non-residential structure.
120. **HOME OCCUPATION:** Any occupation or activity which is clearly incidental and secondary to the use of the premises for dwelling.
121. **HOSPITAL:** A building or group of buildings having room facilities for one or more abiding patients, used for providing services for the in-patient medical and surgical care of sick or injured humans, and which may include related facilities such as laboratories, out-patient department, training facilities, central service facilities, and staff offices; provided, however, that such related facilities must be incidental and subordinate to the main use and must be an integral part of the hospital operation.
122. **HOTEL:** A building, or portion thereof, or a group of buildings, which provides sleeping accommodations for transients with or without meals, whether such establishments are designated as a hotel, inn, automobile court, motel, motor inn, motor lodge, tourist cabin, tourist court, or otherwise.
123. **INDUSTRIAL LANDFILL:** A permitted solid waste disposal area used exclusively for the disposal on land of industrial solid waste.
124. **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.
125. **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.
126. **INTENSITY:** The degree or level of concentration to which land is used for commercial, industrial or any other nonresidential purpose.
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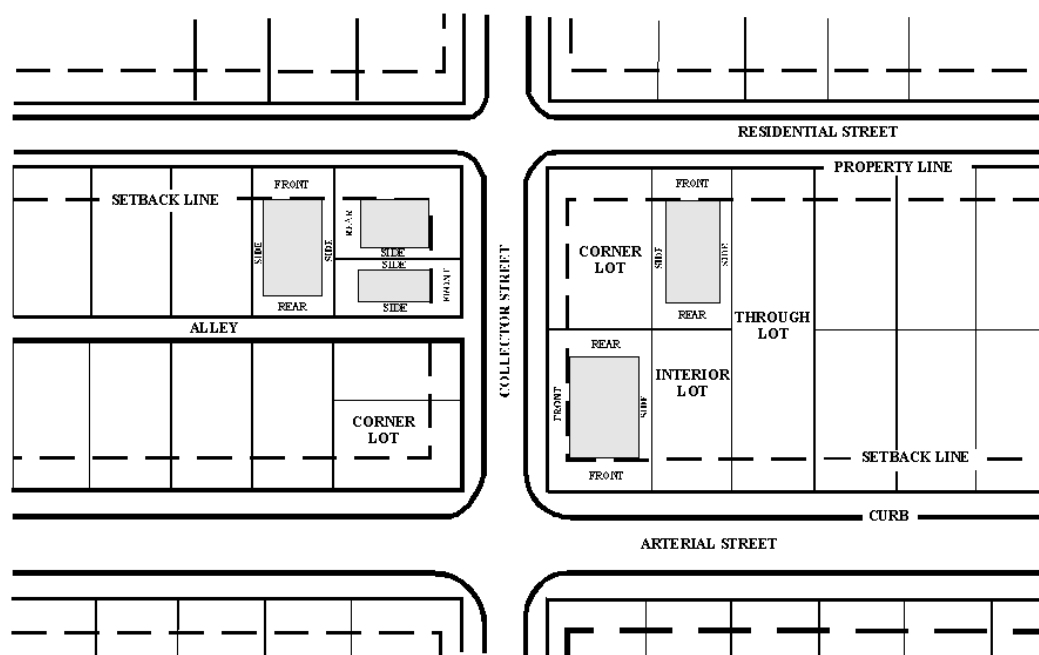
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127. **JUNK:** Old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber debris, waste, or junked, dismantled, or wrecked motor vehicles, or parts thereof, iron, steel and other old or scrap ferrous or nonferrous material.
 128. **JUNKYARD:** 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.
 129. **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.
 130. **KENNEL, BREEDER:** Any place, area, lot, building or structure where more than four dogs are kept for any purposes.
 131. **KINDERGARTEN:** A facility licensed by the State of Kansas to provide educational programs for children during the school year immediately preceding their entrance into First Grade, and connected with a public, private or parochial elementary school system.
 132. **LABORATORY, MEDICAL:** An establishment which provides bacteriological, biological, medical, x-ray, pathological and other similar analytical or diagnostic services.
 133. **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.
 134. **LAUNDRY:** An establishment where commercial laundry and dry cleaning work is undertaken.
 135. **LAUNDRY, SELF-SERVICE:** An establishment equipped with individual coin-operated washing, drying and/or dry cleaning machines.
 136. **LIGHT TRUCK:** A motor vehicle designed, used and maintained primarily for the transportation of property and materials, but which has a manufacturer's gross weight of three-fourths (3/4) ton or less and does not at any point exceed seven (7) feet in height or twenty-one (21) feet in length.
 137. **LIGHT VAN:** A van, otherwise meeting the definition of a van, but which has a manufacturer's gross weight rate of three-fourths (3/4) ton or less and does not at any point exceed seven (7) feet in height or twenty-one (21) feet in length.
 138. **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.
 139. **LOADING SPACE OR LOADING BERTH:** A space within the main building or on the same lot as the main building providing for the standing, loading, or unloading of motor vehicles.
 140. **LONG TERM CARE FACILITY:** 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.
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- 141. 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.
- 142. LOT (sometimes Zoning Lot):** A parcel of land lawfully platted in accordance with regulations [the Subdivision Regulations] of Marion County. Provided, however, that where there exists real property within the county which has not been subdivided, then Lot (sometimes Zoning Lot) shall be defined as a parcel of land under common ownership occupied or intended for occupancy by a use permitted in this ordinance, including one main building, together with its accessory buildings, the yards, parking and loading spaces required herein and having its principal frontage upon a public street.

Figure 1 - Lot Types & Setbacks



- 143. 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.
- 144. LOT, CORNER:** A lot abutting upon two or more streets at their intersection.
- 145. 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.
- 146. LOT, DEPTH OF:** The horizontal distance between the front and rear lot lines measured in the mean direction of the side lot lines.
- 147. LOT, DOUBLE FRONTAGE OR THROUGH:** A lot having a frontage on two non-intersecting streets, as distinguished from a corner lot.

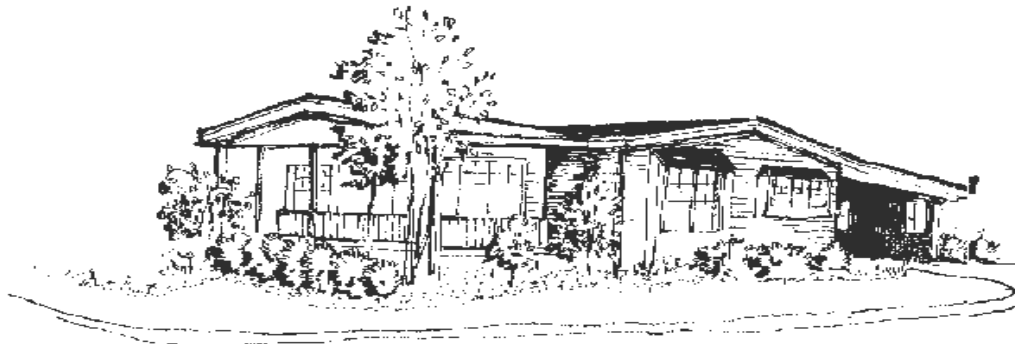
- 148. LOT INTERIOR:** A lot whose side line or lines do not abut upon any street.
- 149. LOT LINES:** The lines bounding a lot as defined herein.
- 150. LOT OF RECORD:** A lot which is part of a subdivision, the plat of which has been recorded in the office of the County Register of Deeds, or a parcel of land, the deed of which was recorded prior to the adoption of these Regulations.
- 151. LOT SPLIT.** The division of a single lot into not more than two (2) tracts without having to re-subdivide said lot, providing that the resulting lots shall not again be divided without re-platting.
- 152. 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.
- 153. 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.
- 154. MANUFACTURE:** Any method of processing, developing, fabricating or assembling either raw material, semi-finished materials or parts into semi-finished or finished products.
- 155. 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 the version of the National Manufactured Home Construction and Safety Standards (24 CFR 3280 et seq) promulgated by the U.S. Department of Housing and Urban Development dated after the 1994 changes. For the purposes of these Regulations, a mobile home is not a manufactured home.
- 156. MANUFACTURED HOME ACCESSORY BUILDING OR STRUCTURE:** A subordinate building or structure which is an addition to or supplements the facilities provided by a manufactured home, such as awnings, cabanas, storage structures, carports, porches, fences, skirting, or windbreaks.
- 157. MANUFACTURED HOME LOT:** A plot of ground within a manufactured home park for the placement of one manufactured home for single-family occupancy and the exclusive use of its occupants, and which provides the necessary utility services for water, sewage and electricity.
- 158. MANUFACTURED HOME, NONCOMPLIANT:** A manufactured home, as defined herein, which was built prior to the adopted version of the National Manufactured Home Construction and Safety Standards Act established by 42 U.S.C. 5401, and amendments thereto, and generally known as the HUD Code (said adopted version being dated July 13, 1994).
- 159. MANUFACTURED HOME PAD:** That portion of the manufactured home lot on which the manufactured home unit, and any attached awning, is placed.
- 160. 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

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- 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.
- 161. MANUFACTURED HOME PARK PERMIT:** A written document of certification issued by the Zoning Administrator permitting the construction, alteration or extension of a Manufactured Home Park.
- 162. MANUFACTURED HOME SALES AREA:** An open space, other than a street, used for display or sale of new or used manufactured homes and where no repair work is done except minor incidental repair of manufactured homes to be displayed and sold on the premises.
- 163. MANUFACTURED HOME SKIRTING:** The enclosing of the area between the manufactured home and the ground with a material designed to obscure from view the chassis of a manufactured home.
- 164. MANUFACTURED HOME SUBDIVISION:** Any area, piece, parcel, tract or plot of ground used or intended to be used for the purpose of selling lots for occupancy by manufactured homes.
- 165. 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. In accordance with K.S.A. 12-763, residential-design manufactured homes are single-family dwellings.

Figure 2 - Manufactured Home Residential Design



Residential Character:

Covered Entry
Front Porch
Landscaping
Pitched Roof

Architectural Details:

Window Elements

(no less than 3:12 pitch)

Manufactured Home Features:

Horizontal Lap Siding
Permanent Masonry foundation
Double-wide Manufactured Home
(greater than 22 feet in width)

- 166. MATERNITY CARE:** A residential care facility licensed by the State of Kansas which includes services to females during pregnancy, or as defined by the state licensing agency.
- 167. MATERNITY CENTER OR HOSPITAL:** A facility licensed by the state of Kansas but is not licensed as a medical hospital, which provides delivery services for normal, uncomplicated pregnancies, or as defined by the state regulatory agency. Maternity Center or Hospital-A facility

licensed by the state of Kansas but is not licensed as a medical hospital, which provides delivery services for normal, uncomplicated pregnancies, or as defined by the state regulatory agency.

- 168. MOBILE HOME:** A structure, transportable in one or more sections, which has a body width of 8 feet or more and a body length of 36 feet or more and which is built on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. Mobile homes include all structures built prior to enactment of the current version of the National Manufactured Home Construction and Safety Standards Act.
- 169. 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.

Figure 3 - Modular Home



Residential Character:	Architectural Details:	Modular Features:	Permanent Features:
Pitched Roof	Eave Projection	Modules for on-site construction	Walkway and Stairs
Covered Entry	Varying Depths		Formal Landscaping
Enclosed Garage	Ornamental Windows		

- 170. MOTOR HOME:** A portable dwelling designed and constructed as an integral part of a self-propelled vehicle used for recreation.
- 171. MOTOR VEHICLE:** A motorized vehicle with rubber tires for use on highways, including passenger cars, pick-ups and trucks.
- 172. 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 Department of Agriculture and has been permitted accordingly.
- 173. MOTOR VEHICLE, INOPERABLE:** Any vehicle that is unable to operate or move under its own power. It shall also mean any vehicle that is in an abandoned, wrecked, dismantled, scrapped, junked or partially dismantled condition which includes having uninflated tires, no wheels, or

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- lacking other parts necessary for the normal operation of the vehicle. It shall also mean any vehicle that because of mechanical defects, a wrecked or partially wrecked frame or body or dismantled parts, cannot be operated in a normal, and safe manner. An inoperable vehicle shall not include vehicles needing only the installation of a battery or the addition of fuel in order to operate.
- 174. MULTI-FAMILY LAND USE:** The use of any lot or tract of land for two-family and/or multi-family dwellings.
- 175. 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.
- 176. 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.
- 177. NOXIOUS MATTER:** Material which is capable of causing injury to living organisms by chemical reaction or is capable of causing detrimental effects upon the physical or economic well-being of individuals.
- 178. NURSERY:** Any land used to raise trees, shrubs, flowers and other plants for sale or for transporting.
- 179. NURSING OR CONVALESCENT HOME:** An institution or agency licensed by the State of Kansas 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.
- 180. OPEN SPACE:** Useable open space designed and intended for use by all residents of a residential area, including publicly dedicated space.
- 181. OUTDOOR STORAGE:** The storage of goods and materials outside of any building or structure, but not including storage of a temporary or emergency nature.
- 182. OVERLAY DISTRICT:** A district which acts in conjunction with the underlying zoning district or districts.
- 183. 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.
- 184. PACKAGE LIQUOR STORE:** An establishment in which alcoholic beverages are sold for consumption off the premises.
- 185. PARCEL:** A lot or contiguous group of lots in single ownership or under single control, usually considered a unit for purposes of development.
- 186. 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.
- 187. 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.
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188. **PERSON:** Any individual, partnership, joint venture, corporation, or other business or legal entity.
189. **PICKUP TRUCK CAMPER:** A structure designed primarily to be mounted on a pickup truck chassis and with sufficient equipment to render it suitable for use as a temporary dwelling for travel, recreational or vacation use.
190. **PLANNING COMMISSION:** The Planning Commission of Marion County, Kansas.
191. **PRESCHOOL:** A facility licensed by the State of Kansas to conduct sessions of daytime care instruction for no more than three (3) hours per session 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 which is not a part of a public school district's program, jurisdiction, or fiscal and educational responsibility, or as defined by the state child care regulatory agency.
192. **RAILROAD RIGHT-OF-WAY:** A public or private right-of-way on which tracks for trains are constructed. Railroad yards and stations shall be classified as cargo or passenger terminals.
193. **RECREATIONAL EQUIPMENT:** That which an occupant or owner may desire for convenience to store on his lot, but which item is normally and principally transported for use off the lot on a trailer or other vehicle and which is not used by the very nature and utility of the item in connection with customary accessory residential uses on the 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.
194. **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.
195. **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.
196. **RECREATIONAL VEHICLE CAMPGROUND:** A lot, tract or parcel of land designed for occupancy by recreational vehicles for temporary or transient living purposes, including the use of camping spaces for tents.
197. **RESIDENTIAL CENTER:** A twenty-four (24) hour, non-secure facility licensed by the State of Kansas providing residential care for more than ten (10) persons children unrelated to the operator(s), or as defined by the state child care regulatory agency.
198. **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,
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snack shop, hamburger shop and steak house.

- 199. RIDING STABLES:** A structure in which saddle horses are kept and/or maintained as a commercial operation, and in connection with which saddle horses may be rented to the general public or made available to members of a private club. Exercise rings and show rings shall be considered uses accessory to the use of the premises for a riding stable.
- 200. 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.
- 201. RURAL RESIDENTIAL:** A lot of more than ten (10) but less than forty (40) acres in size created for the purpose of providing a residential building site, notwithstanding the accessory agricultural use of some or all of said lot either prior to or after the construction of the residential dwelling.
- 202. SALE, RETAIL:** The sale of goods, merchandise and/or commodities to the ultimate consumer.
- 203. 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.
- 204. 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.
- 205. SCHOOL:** Any 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.
- 206. SCRAP MATERIAL RECYCLING AND PROCESSING FACILITY:** A fixed location that utilizes machinery and equipment for processing only recyclables as defined by K.S.A. 65-3402{r}, and amendments thereto.
- 207. SCREENING:** Fencing or vegetation maintained for the purpose of concealing from view.
- 208. SECURE CARE CENTER:** A secure youth residential facility licensed by the State of Kansas, other than a juvenile detention facility, used to provide care and treatment for alleged or adjudicated children in need of care pursuant to the Kansas code for the care of children, or as defined by the state licensing agency.
- 209. SECURE RESIDENTIAL TREATMENT FACILITY:** A secure facility licensed by the State of Kansas, operated or structured to provide a therapeutic residential care alternative to psychiatric hospitalization for five or more youth with a diagnosis of a severe emotional, behavioral, or psychiatric condition. "Treatment" means comprehensive, individualized, goal-directed, therapeutic services provided to youth, or as define by the state licensing agency.
- 210. SETBACK:** The distance between a building and the lot line, or road easement line, whichever provides the desired minimum distance.
- 211. SIGN:** See Article 18.
- 212. SLIDE-IN CAMPER:** A structure designed to be mounted temporarily or permanently in the bed

of a pickup or light truck to provide enclosed storage space for transportation of property or quarters for recreational camping, including shells and truck cabs.

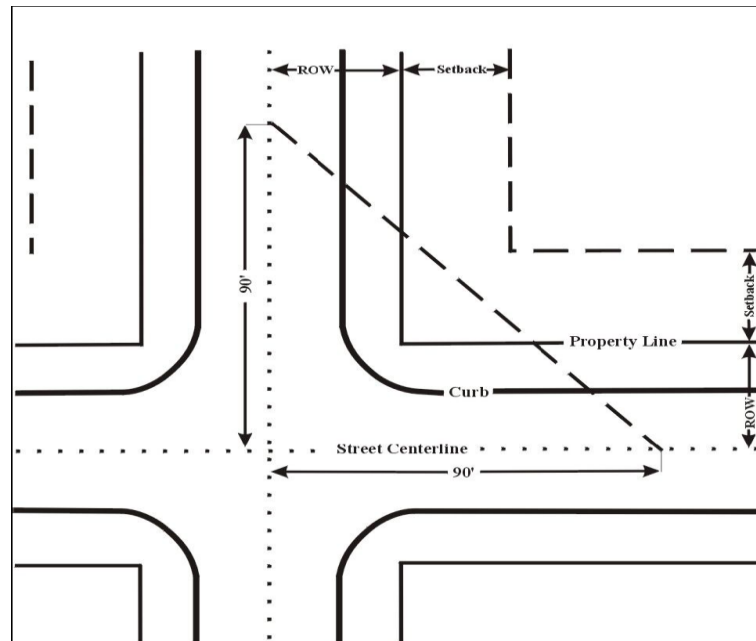
- 213. SOLAR COLLECTOR:** A device or combination of devices, structure, or part of a structure that transforms direct solar energy into thermal, chemical, or electrical energy and contributes significantly to, or is a substitute for, a structure's energy supply.
- 214. SOLID WASTE:** Garbage, refuse 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.
- 215. SOLID WASTE DISPOSAL AREA:** Any area used for the disposal of solid waste from more than one residential premise, or one or more commercial, industrial, manufacturing or municipal operations and which is permitted by the Kansas Department of Health and Environment, or its successor agency pursuant to K.S.A. 65-3401 et seq., as amended.
- 216. SOLID WASTE PROCESSING FACILITY:** An incinerator, compost plant, transfer station, reclamation facility or any other location where solid waste as defined by K.S.A. 65-3402, and amendments thereto, are consolidated, temporarily stored, salvaged or otherwise processed prior to being transported to a final disposal site. A Solid Waste Processing Facility does not include a Scrap Material Recycling and Processing Facility.
- 217. SPECIFIED ANATOMICAL AREAS:** Any of the following:
- A. Less than completely or opaquely covered human genitals, pubic region, buttocks, anus, or female breast area below a point immediately above the top of the areola; or
 - B. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.
- 218. SPECIFIED SEXUAL ACTIVITIES:** Any of the following:
- A. Fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts; or
 - B. Acts actual or simulated of sexual intercourse, masturbation, sodomy, or oral copulation; or
 - C. Excretory functions as part of or in connection with any of the activities set forth in paragraphs 1 and 2 of this definition.
- 219. STOCKYARD, COMMERCIAL:** A penned enclosure, or structure, where livestock are maintained temporarily for the purpose of slaughtering, marketing or shipping.
- 220. 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.
- 221. 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.

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222. **STREET:** An easement or right-of-way, other than an alley, which provides principal access to adjacent properties.
223. **STRUCTURE:** Anything constructed or erected which requires location on the ground, or attached to something having a location on the ground.
224. **SUBURBAN RESIDENTIAL:** A lot equal to or greater than three (3) acres but less than ten (10) acres in size created for the purpose of providing a residential building site, notwithstanding the accessory agricultural use of some or all of said lot either prior to or after the construction of the residential dwelling.
225. **SWIMMING CLUB:** A pool and accessory building operated for members and their guests, whether or not operated for gain.
226. **SWIMMING POOL, PRIVATE:** A pool which is an accessory use to a residence and for the exclusive use of the occupants of the residential building and their guests.
227. **SWIMMING POOL, PUBLIC:** A pool and accessory buildings, generally owned and operated by a governmental entity, whether open or enclosed, and for use by the general public.
228. **TAVERN:** An establishment in which cereal malt beverages are sold or served to customers.
229. **TEMPORARY STRUCTURE:** A temporary; portable unit for office or residential use, or for use as an accessory structure, that is designed to be transported, and which is permitted for a time-limited period.
230. **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.
231. **TRAVEL TRAILER:** A structure, not to exceed nine feet in width, designed to provide temporary living quarters for recreational, camping or travel use, constructed with integral wheels to make it mobile and/or towable by a motor vehicle.
232. **TRAILER PARK:** A tract, lot, or parcel of land upon which temporary accommodations are provided for two or more trailers; such park being open to the public either free or for a fee.
233. **USE:** The specific purpose for which land or a building is used.
234. **USEABLE OPEN SPACE:** Land or water which is free of buildings, structures and/or other 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.
235. **VARIANCE:** A variation from a specific requirement in these regulations, as applied to a specific piece of property, as distinct from rezoning.
236. **VISIBILITY TRIANGLE:** A triangular area at a street intersection in which nothing shall be erected, placed (including automobiles, trucks and other large vehicles or trailers), planted, or
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allowed to grow in such a manner as to materially impede vision and, therefore, the safety of vehicles and pedestrians.



237. **WASTE TIRE:** A whole tire that is no longer suitable for its original intended purpose because of wear, damage or defect, as defined in K.S.A. 65-3424, et seq, and amendments thereto.
238. **WASTE TIRE ABATEMENT:** The processing or removing to an approved storage site of waste tires which are creating a danger or nuisance.
239. **WASTE TIRE BENEFICIAL USE:** The use or storage of waste tires in a way that creates an on-site economic benefit, other than from processing or recycling, to the owner of the tires. This shall not include the disposal of waste tires on the owners land simply to avoid proper disposal as prescribed by these Regulations and/or state law.
240. **WASTE TIRE COLLECTION CENTER:** A site where used or waste tires are collected from the public prior to being offered for recycling or disposal.
241. **WASTE TIRE PROCESSING FACILITY:** A site where equipment is used to cut, burn or otherwise alter whole waste tires so that they are no longer whole.
242. **WASTE TIRE SITE:** A site at which 1,000 or more whole tires are accumulated.
243. **WASTE TIRE STORAGE:** The placing of waste tires in a manner that does not constitute disposal of the waste tires. Storage includes the beneficial use of waste tires as silo covers and erosion control, and such other beneficial uses determined not to create health or environmental risks by the Secretary of Health and Environment of the State of Kansas.
244. **WIND ENERGY CONVERSION SYSTEM (WECS):** The combination of mechanical and structural elements used to produce electricity by converting the kinetic energy of wind to electrical energy. Wind Energy Conversion Systems consist of the turbine apparatus and any other buildings,

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support structures and other related improvements necessary for the generation of electric power from wind.

- 245. WIND ENERGY CONVERSION SYSTEM, COMMERCIAL:** A single Wind Energy Conversion System exceeding 25 kW or exceeding 199 feet in height above grade, or more than one Wind Energy Conversion System of any size proposed and/or constructed by the same person or group of persons on the same or adjoining parcels or as a unified or single generating system.
- 246. WIND ENERGY CONVERSION SYSTEM HEIGHT:** The distance measured from the ground level at the base of the tower structure to the highest point on the Wind Energy Conversion System, including the rotor blades.
- 247. WIND ENERGY CONVERSION SYSTEM, NONCOMMERCIAL:** A wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of not more than 25 kW, which is less than 199 feet in height above grade and which is intended to primarily reduce on-site consumption of utility power.
- 248. 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.
- 249. YARD-GARAGE SALE:** A sale of household goods stored on the premises of the principal residence of the householder.
- 250. 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.
- 251. 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.
- 252. 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.
- 253. 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.
- 254. ZONING ADMINISTRATOR:** The person or persons authorized and empowered by the Governing Body to administer the requirements of these Regulations.
- 255. ZONING CERTIFICATE:** A document signed by the Zoning Administrator which acknowledges that a use, structure, building or lot either complies with or is legally non-conforming to the provisions of these Regulations, or is authorized by a variance or special exception granted by the Board of Zoning Appeals. The issuance of the zoning certificate authorizes the use of the land

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and/or structure or building. The final establishment of the activity is by the issuance of a Certificate of Occupancy as provided in 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 Marion County, is hereby divided into districts of which they shall be in number, known as:

"A"	Agricultural District
"RR"	Rural Residential District
"SR"	Suburban Residential District
"R-1"	Single-Family Residential District
"ES"	Marion Reservoir Eastshore Subdivision Residential District
"LL"	Marion County Lake Lot Residential District
"V-1"	Village District
"FP"	Floodplain District
"FRD"	Floodwater Retarding Dam Breach Impact District

At the time of initial adoption, all lands within the unincorporated portion of Marion 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 acre 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 adoption of these Regulations shall be permitted to expand, enlarge or otherwise enhance said use on that land contiguous to and under single ownership at the time of the establishment of this rule; provided a Development Plan is placed on file as required by these Regulations. (Example: A landowner who is operating a commercial business 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 may expand that operation on any portion of the contiguous land owned at the time the Regulations were first adopted.)

1. Such land, and the district classification thereof, shall be shown on the official maps designated as the "Zoning District Boundary Maps of Marion County, Kansas." Such Zoning District Boundary Maps, and all symbols, notations, dimensions, and references shown thereon pertaining to such districts shall be as much a part of these Regulations as if fully they were described herein, and shall be filed as part of these Regulations with the Zoning Administrator of Marion County. Said Maps shall be available for inspection in the office of the Zoning Administrator and any later alterations of these Maps, adopted by amendment as provided by these Regulations, shall be filed and made available for public reference. The above stated maps shall hereinafter be referred to as the "maps".
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 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. No land may be used except for a purpose permitted in the district in which it is located.
 - B. No building shall be erected, converted, enlarged, reconstructed, moved or structurally altered, nor shall any building or part thereof be used, except for a use permitted in the district in which the building is located.
 - C. No building shall be erected, converted, enlarged, reconstructed, moved or structurally altered to exceed the height, area and bulk regulations, the parking regulations, or the off-street loading regulations herein established for the district in which the building is located.
 - 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.

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- E. The minimum yards, parking spaces, open spaces, including lot area per family, required by these Regulations for each and every building existing at the time of the passage of these Regulations, or of any building 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 or principal building on one lot.
 - G. No structure shall hereafter be built or moved, and no structure or land shall hereafter be used, occupied or designed for use or occupancy unless the minimum off-street parking and loading spaces required by Articles 13 and 14 are provided. No structure or use already established on the effective date of these Regulations shall be enlarged unless the minimum off-street parking and loading spaces which would be required by Articles 13 and 14 are provided for the whole structure or use as enlarged.
 - H. 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.
 - I. These Regulations shall not apply to poles, wires, cables, conduits, vaults, laterals, pipes, mains, valves or other similar equipment for the distribution to consumers of telephones or other communications, electricity, gas or water, or the collection of sewage or surface water, but not including utility substations located on or above the surface of the ground.
 - J. These Regulations shall not apply to railroad tracks, signals, bridges and similar facilities and equipment located on a railroad right-of-way and maintenance and repair work on such facilities and equipment.
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 and suburban 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, smoke from occasional burning operations, the operation of machinery of any kind 24 hours a day, 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.
3. Notwithstanding any provision in these Regulations to the contrary and to the extent of any conflict, this sub-section 1-106 (3) controls: these Regulations shall not apply to poles, wires, cables, conduits, vaults, laterals, pipes, mains, valves, transmission lines, distribution lines, or similar equipment, for the transmission or distribution of communications, electricity, gas, oil, water or
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sewer, that are either: (1) located on, under or within a private easement, State or Federal right-of-way, State or Federal road easement, or other real property dedicated as road right-of-way; or (2) owned, operated, maintained, or constructed by a Kansas Corporation Commission jurisdictional entity.

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 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 then Marion 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, 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 Marion County Subdivision Regulations. Persons who obtain a validly issued permit under the previous Marion County Zoning Regulations shall be permitted to develop the property so long as the permit issued under the previous Marion 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 or the Marion County Subdivision Regulations then in effect.