

- 255. **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.
- 256. **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.
- 257. **ZONING ADMINISTRATOR:** The person or persons or their duly appointed representative(s) authorized and empowered by the Governing Body to administer the requirements of these Regulations.
- 258. **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 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

Yearout explained the LESA system, saying it was an approach to allow ag land to become non-ag, by the use of documents to evaluate land based on soil value. LESA stands for Land Evaluation and Site Assessment. Yearout said this system does not work in Kansas because most of the evaluations came out middle of the road, so there was no point in continuing to use this system. Kraus said a lot of farm equipment cannot get in some areas to farm properly and the zoning board should be able to make better decisions for the county than some formula like this.

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".

(Yearout will work on cleaning up the language in #1)

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.
 - 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 15 and 16 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 15 and 16 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 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, 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 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 un-platted 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.

ARTICLE 2

"A" AGRICULTURAL DISTRICT REGULATIONS

Sections:

2-101 Purpose

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 Purpose: 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 "A" Agricultural District. The purpose of this District is to provide for a full range of agricultural activities on land used for agricultural purposes, including processing and sale of agricultural products raised on the premises, and at the same time offer protection to land used for agricultural purposes from the depreciating effect of objectionable, hazardous, incompatible and unsightly uses.

The District is also intended for purposes of protecting watersheds and water supplies; to protect forest and scenic areas; to conserve fish and wildlife habitat; to promote forestry; and to prevent and/or discourage untimely scattering of suburban residential, rural residential, and/or more dense urban development. In this regard, all lands used for agricultural purposes, 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 as herein defined; provided, however, that consistent with state law, new agricultural buildings shall be subject to setback requirements on that part of agricultural lands fronting on designated major roads and highways. Any proposal for change of land used for agricultural purposes to nonagricultural uses shall be subject to the requirements of these regulations.

Land within the "A" Agricultural District is eligible for the Agricultural Lot Split process found in the Marion County Subdivision Regulations as a means to provide for a gradual conversion of such lands to non-agricultural residential uses. It is also deemed to be the most prime for development from the perspective of location; however proposals for development must prove compliance with all other rules, regulations, codes and resolutions of Marion County for further development to occur. This includes the provision of adequate utility infrastructure to support the proposed development.

(Members continued to discuss lot splits.)

2-102 Use Regulations: In District "A," 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 purposes.
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. **Single-family dwellings (see Article 6 Sub-Division Regulations)**
6. Railroad right-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.
7. The creation of one (1) additional lot on lands used for agricultural purposes shall be permitted without requiring a rezoning, including those divisions of agricultural lands because of mortgage or lending requirements; provided said additional lot is created in conformance with the requirements of the Marion County Subdivision Regulations; and further provided that the lot so created shall not be permitted to have anything but a single family dwelling as defined in these Regulations.

2-103 Performance Standards: The Performance Standards for permitted uses are contained in Article 15 of these Regulations..

2-104 Parking Regulations: The Parking Regulations for permitted uses are contained in Article 16 of these Regulations.

2-105 Off-Street Loading Regulations: The Off-Street Loading Regulations for permitted uses are contained in Article 17 of these Regulations.

2-106 Sign Regulations: The Sign Regulations are contained in Article 18 of these Regulations.

2-107 Height, Area and Bulk Regulations: In the “A” Agricultural District, the minimum dimensions of yards required along designated major roads and highways in Marion County shall be as follows:

1. **Lot Area:** Every lot shall be a minimum of 40 acres. A lot described as quarter/quarter (i.e. 1/4 of 1/4 of a section) shall be deemed to meet the lot size requirements even though said lot may net less than a full 40 acres.

The lot size shall not apply to those lots created through an approved Agricultural Lot Split in accordance with the Marion County Subdivision Regulations and which are subject to the Agricultural Lot Split Agreement filed with the Marion County Register of Deeds.

2. **Lot Dimensions:** The minimum width of a lot shall be 660 feet. The minimum depth of a lot shall be 660 feet.
3. **Front Yard:** The depth of the front yard shall be at least 30 feet or a minimum of 75 feet from the centerline of the existing right-of-way, whichever is greater.
4. **Side Yard:** There shall be a side yard on each side of a dwelling. The depth of the side yard shall be at least 50 feet.

5. **Rear Yard**: The depth of the rear yard shall be at least 50 feet.

The Area and Bulk Regulations are also set forth in the chart of Article 19. 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 20 of these Regulations.

2-109 Supplementary Use Regulations: The Supplementary Use Regulations, including permitted Conditional Uses and Accessory Uses, are contained in Article 21 of these Regulations.

ARTICLE 14

PLAN APPROVAL GUIDELINES

Sections:

14-101 Purpose

14-102 Application, Review, Approval Procedure

14-103 Development Plan

14-104 Development Plan – Planning Commission Review

14-105 Development Plan – Phasing, Time Restrictions

14-106 Appeals of Planning Commission Action on Development Plan

14-107 Remedies for Noncompliance

14-101 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 the consideration of an application for a Conditional Use under the provisions of these Regulations. The erection, construction, reconstruction, moving or altering on an individual lot or property of a single-family residential unit shall not be subject to the provisions of this Article.

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 in the Development Plan as a part of the Conditional Use process, or may be allowed upon request of the applicant after approval by the Planning Commission and Governing Body as an amendment to a previously approved Development Plan or as a first approval of a Development Plan on properties that have never had an approved Development Plan.

14-102 Application, Review, Approval Procedure: In order to assure that proposed re-zonings or 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 Conditional Use Permit, except those uses exempted in Section 14-101 above, 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 Conditional Use Permit, and:
2. 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.

14-103 Development Plan: Application for a Conditional Use, and Development Plan approval shall be made in accordance with the procedures outlined in Article 21 of these Regulations. The application

shall include a Development Plan which 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. When deemed necessary, 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.

(Yearout will incorporate electronic documents language here.)

14-104 Development Plan – Planning Commission Review: The Planning Commission shall review the application for a Conditional Use Permit, along with the Development Plan, and shall recommend approval or denial of the Conditional Use Permit along with the Development Plan to the Governing Body, or may request modifications to the Development Plan as deemed necessary to carry out the spirit and intent of these Regulations. Approval by the Governing Body 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 Planning Commission and/or Governing Body 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. Prohibition of use or construction of any structure to be used for a single-family dwelling, including a manufactured home.
7. Plans for control or elimination of smoke, dust, gas, noise or vibration caused by the proposed use.
8. 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.
9. Such other conditions and/or limitations that are deemed necessary.

14-105 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 Conditional Uses approved with a Development Plan shall have construction begun within one (1) year of said approval by the Governing Body. The applicant may request a one (1) year extension of this time restriction by submitting a request in writing to the Governing Body stating the reasons construction has not begun and at what time construction is expected to begin. If the Governing Body agrees, the one (1) year extension may be granted one time but shall not be granted for any longer period.

The Governing Body shall review the Development Plan and shall act on said plan in a reasonable time period. Upon approval by the Governing Body, the Development Plan shall be filed for record in the office of the Zoning Administrator. In addition, an affidavit shall be recorded with the Marion County Register of Deeds indicating a Development Plan has been approved and is on record with the Zoning Administrator and that revisions or alterations to the property must be made in accordance with the Development Plan.

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 to and approved by the Planning Commission and Governing Body before any further work can

proceed. 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.

14-106 Appeals of Planning Commission Action on Development Plan: Any decision of the Marion County 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 Marion County Planning Commission's final action. If no appeal is taken within that time, the decision of the Marion County 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.

14-107 Remedies for Noncompliance: If the applicant fails to comply with any of the restrictions or limitations established with an approved Development Plan, including 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 Conditional Use Permit shall remain in effect but shall do so without an approved Development Plan. If the approved Development Plan is voided, the Planning Commission or the Governing Body may initiate an action to have the Conditional Use Permit revoked.

(Yearout explained a Conditional Use Permit (CUP) is like a rezone and the only way to eliminate it is to officially take it away. Yearout said a CUP cannot go away by itself, but the planning commission can initiate action with a public hearing, etc., to eliminate it.)

ARTICLE 15

PERFORMANCE STANDARDS

Sections:

15-101 Purpose

15-102 Performance Standards- Districts "A", "RR", "SR", "ES", "LL", "R-1" and "V-1"

15-103 Performance Standards – Conditional Uses

15-101 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 Marion County 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.

15-102 Performance Standards -Districts "A", "RR", "SR" "ES," "LL" "R-1" and "V-1": The following are the performance standards for the "A" Agricultural District, "RR" Rural Residential District, the "SR" Suburban Residential District, the "R-1" Single-Family Residential District, the "ES" Marion Reservoir Eastshore Subdivision District, the "LL" Marion County Lake Lot Residential District, and the "V-1" Village District.

1. Where allowed by these Regulations (by right in the "A" 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; provided, however, there shall be no disposal of garbage, rubbish or offal, other than regular removal, except in compliance with the Marion County Sanitary Code.
2. No main or accessory building or structure shall project beyond the property line. On all major streets and highways within Marion 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, "SR" Suburban Residential District "R-1" Single-Family Residential District, "ES" Marion Reservoir Eastshore Subdivision Residential District, "LL" Marion County Lake Lot Residential District, and the "V-1" Village District 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. Manufactured homes, 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, when installed, to have substantially the appearance of an on-site, conventionally built, single-family dwelling in this County, 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 horizontal run, and the roof is finished with a type of shingle that is commonly used in standard residential construction in the County.
 - 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 in the County.
 - 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, un-pierced 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.

5. Where permitted as an accessory use, non-commercial (members wish to change the word “small” to “non-commercial”) wind energy conversion systems shall conform to the following standards:

- a. The maximum capacity of the system shall be 25 kW. There shall be no more than one system on an individual property.
- b. The lowest point of the rotor blades shall be at least 30 feet above ground level at the base of the tower.

(Members discussed the 20 foot height requirement here and decided to go with 30 feet.)

- c. The maximum height of the structure shall be 199 feet as measured to the top of the blade at its highest point
- d. The minimum setback shall be a distance equal to the height **plus 50 feet** of the structure from all property lines.

(Yearout will work on language to add in a 1,000 foot buffer area. Yearout said it depends what position the county wants to take to accommodate people wanting to put these on their property. Yearout said a variance is one of the most abused things in this business. If it is within 1,000 feet, you just treat it as an exception, Yearout said.)

- e. Any standards proposed to exceed those stated herein shall be permitted only by the issuance of a Conditional Use Permit after proper notice and hearing as provided by these Regulations.

6. In the “RR” Rural Residential District where a structure constructed or intended for use as a shipping container, whether originally as a transportation vehicle or as a separate structure, only one (1) such structure shall be used as an accessory building. Said structures are prohibited in the “SR” Suburban Residential District, “R-1” Single-Family Residential District, the “ES” Marion Reservoir Eastshore Subdivision Residential District, the “LL” Marion County Lake Lot Residential District and the “V-1” Village District. Such structures may be placed in any number in the Agricultural Districts.

15-103 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. For retail commercial uses, 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 16 herein. In addition, the outdoor storage or display area shall occupy an area no greater

than twenty percent (20%) 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 15 feet from a street right-of-way, or 6 feet from a side or rear lot line.

(Members discussed shipping containers. Yearout will work on a definition for shipping container.)

3. Any manufacturing or assembly of products shall be entirely within a totally enclosed building, unless otherwise authorized.
4. 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 there under.
5. No activity shall be permitted that creates any off-site electrical disturbance.
6. Light sources shall be controlled or hooded so that light is directed away from any adjoining residentially zoned property or public streets.
7. For industrial uses, 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.

Mueller asked members if they wish to review what is left at the next work session and then make a decision whether or not to move forward. Yearout recommended another work session and then adopt new regs at the following meeting. Yearout said a big change is the rewriting of the sign regs. Yearout said he is trying to pick up all the new language or these regs will not hold up in court if questioned. Avery asked Richards to e-mail members which information they will be looking at for the next work session. The next work session is scheduled for May 11, 2011, at 7 p.m. This work session adjourned at 10:03 p.m.