

# MARION COUNTY PLANNING COMMISSION/BOARD OF ZONING APPEALS

## RECORD OF PROCEEDINGS

### SPECIAL MEETING

**March 10, 2011**

Chairman David Mueller called the Special Meeting to order at 6:47 p.m.

Roll Call was answered by Mueller, Dan Mount, Bob Maxwell, Mary Avery, Nick Kraus, and Jim Schmidt. Lloyd Funk and Marquetta Eilerts were absent. Zoning Administrator Tonya Richards was present. Mueller noted there is a quorum present. Richards explained there is a new member, Brad Vannocker, who was appointed by County Commissioner Bob Hein to replace Kent Becker. Hein made this appointment prior to retiring from the County Commission. Mueller also noted the regular meeting scheduled for March 24, 2011, will begin at 6:30 p.m., and will be held at the Marion County Lake Hall. Mueller explained that the bylaws state that meeting time will change back with daylight savings, but a full agenda with much public comment prompts the decision to start early.

Item 1: Public Meeting for Marion County Floodplain Regulations, regulated by the Kansas division of Water Resources and FEMA (Federal Emergency Management Agency). Richards explained the regulations were sent from the state level. We really have no say, we have to follow them, Richards told members. She explained she had a list of requirements and she completed them all. Maxwell said members received a copy from the state and another copy from Consultant Dave Yearout. Most of our old regs have been deleted and changed, Maxwell said, and Richards agreed. We have to go along in order to be a participant in the program, Richards said about the state regs. Maxwell asked who wrote the new regs and Richards said the Kansas Division of Water Resources. Avery asked if all Kansas counties have the same regulations, and Richards said she will ask. Richards said the new state regs work with the new flood zone maps. Kraus asked about the new maps and Richards showed members new preliminary maps. She explained the maps in member's books are old maps. Mueller asked, and Richards explained they had an open house in Goessel and in Marion to inform the public. Richards showed members where she had to make corrections on the preliminary maps so a final draft may be produced. Richards said she is grateful for the new maps, as they are a big help to her. She said this makes it easier to help give people options. Richards said she is working with people to lock in lower risk rates for people who own property that has changed on the new maps before the deadline March 17, 2011. Mueller asked if there were other questions. Richards told members there were 17 new homes built in the county last year. Mueller noted there were no members of the public present, so there is no public comment. Avery moved upon recommendation of the Kansas Division of Water Resources to recommend to the Marion County Commission to approve the floodplain overlay district regulations as written, and Kraus seconded. In favor: 6; Opposed: 0; Motion carried.

Item 2: Amendment to Regulations: Article 1. Maxwell said he is glad Richards has started putting revision dates at the bottom of pages. Richards will separate pages by Articles in the new notebooks for members. Maxwell also asked Richards to put "end" at the end of each Article to help members.

Richards said Article 1 is mainly definitions. She said there are a lot we did not have before. Members began going through Article 1 page by page. Please note comments and changes are in red. As changes and additions are made, numbering and lettering will need to be updated.

## ARTICLE 1 TITLE, PURPOSE, DEFINITIONS, DISTRICT AND GENERAL REGULATIONS

**Sections:**

- 1-101 Title and Authority**
- 1-102 Purpose**
- 1-103 Definitions**
- 1-104 Districts**
- 1-105 General Regulations Governing All Zoning Districts**
- 1-106 Vesting Development Rights**

**1-101 Title and Authority:** These regulations, including the Zoning District map(s) and overlay(s) 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.*

**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 good agricultural land and protect it from the intrusion of incompatible uses, but not to regulate or restrict the principal use of land for agricultural uses. *After discussion, members decided to keep this wording.*
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.

**12. To manage growth and promote economic development to benefit the citizens of Marion County, Kansas.**  
(Members asked Richards to ask Yearout why he suggests adding this.)

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

(Members are okay with adding this.)

**1-104 Definitions:** For the purpose of these Regulations, certain terms and words are hereby defined. Words used in the present tense shall include the future and words used in the future 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.
9. **ADVERTISING SIGN:** Any structure, object or device erected, maintained or used for advertising purposes related to the permitted principle use of the premises upon which it is located. This definition includes the terms signs, road-side boards, signboard advertising display, but does not include the word billboard.

(Yearout proposed removing this definition, but members want it included as written.)

10. **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; suburban residential acreages; rural 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.
  - B. The operation or maintenance of greenhouses, nurseries or hydroponic farms operated at retail.
  - C. Wholesale or retail sales as an accessory use unless the same are permitted by these Regulations.
  - D. The operation or maintenance of a commercial stockyard or feedlot or other confined animal feeding operation.
  - E. The operation of an auction sales yard.
  - F. The operation of a junk yard.
  - G. The keeping of exotic birds and/or animals.
  - H. The operation of an airport or landing strip.
  - I. Quarrying or mining activities, even though the reclamation of same may be for water impoundments that support agricultural activities.
  - J. The operation of a boarding or breeder kennel, **as defined herein.**
  - K. **The operation of a riding stable, as defined in these Regulations.**
  - L. **The placement and/or use of a manufactured home, mobile home, travel trailer, semi-trailer, shipping container, or any other structure originally built for other purposes, for any use including storage or housing of agricultural products or animals.**
11. **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.
12. **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 tie-down 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.**
13. **ALLEY:** A public or private thoroughfare which provides only a secondary means of access to abutting property.
14. **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.

15. **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 map.
  - 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 map, i.e., the zoning designation of a particular parcel or parcels. This form is also known as "rezoning."
16. **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.
17. **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.
18. **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.
19. **APARTMENT HOUSE:** A building or buildings containing apartments used as a place of residence for more than two (2) families.
20. **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.  
**Yearout proposes changing "legal" owner to "record" owner and members agree to change.**
21. **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.
22. **ATTENDANT CARE FACILITY:** A facility licensed by the State of Kansas as 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.
23. **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 **and/or livestock** offered on consignment.  
**Yearout proposes removing "and/or livestock" but members wish for it to remain as written.**
24. **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.
25. **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.

26. **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.
27. **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.
28. **BASEMENT:** The lowermost portion of a structure partly or wholly below ground level. The term shall not include berm homes or other similar structures.
29. **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.
30. **BENEFICIAL USE:** As related to waste tires, means 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.  
Yearout did not include a definition for Beneficial Use.
31. **BILLBOARD:** Any structure, object or device erected, maintained or used for advertising purposes not related to a principal use of the premises upon which it is located.  
Yearout proposes removing this definition at this location, but members wish for it to be included in Article 1. Members also wish to add: (See Article 18) after the definition.
32. **BOARD OF ZONING APPEALS:** That board created herein which has the statutory authority to hear and determine appeals, exceptions and variances to these Regulations.
33. **BOARDING OR ROOMING HOUSE:** A dwelling in which roomers, lodgers and/or boarders are housed but individual cooking facilities are not provided.
34. **BUFFER AREA:** Open and unobstructed ground area of a plot in addition to any required yards or road widening around the perimeter of any plot.
35. **BUILDABLE WIDTH:** The width of that part of a lot not included within any required open space.
36. **BUILDING:** Any structure built for the support, shelter, or enclosure of persons, animals, chattels or movable property of any kind, and which is permanently affixed to the land, exclusive of fences.
37. **BUILDING, COMMUNITY:** A building used for noncommercial social, educational, or recreational activities of a neighborhood or community.
38. **BUILDING, COMPLETELY ENCLOSED:** Any building having no outside openings other than ordinary doors, windows and ventilators.
39. **BUILDING HEIGHT:** The vertical distance from the established grade to the highest point on the roof or parapet wall.
40. **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.

41. **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.
42. **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.
43. **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.
44. **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.
45. **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.
46. **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.
47. **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.
48. **CAR WASH:** An establishment having facilities designed or used exclusively for washing or cleaning motor vehicles.
49. **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.
50. **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.
51. **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.
52. **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.
53. **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.

54. **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.
55. **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 (3½) feet above the pavement surface, to an object six (6) inches high on the pavement.
56. **CLINIC:** A building designed and used for the medical, dental or surgical diagnosis or treatment of patients under the care of doctors and/or nurses, **and/or other licensed medical professionals**, with no overnight boarding.
57. **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.
58. **CLUB, MEMBERSHIP:** Membership clubs, including private clubs, as defined by K.S.A. 41-2601 et seq and succeeding amendments, including but not limited to such clubs as the American Legion, VFW, and the Elks.
59. **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.
60. **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.
61. **COMMUNICATION TOWER:** Commercial AM/FM radio, television, microwave and cellular telephone transmission towers, electronic emission of any wave length and accessory equipment and buildings.
62. **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.  
**After discussion, members decided to keep this version for a definition of Comprehensive Plan.**
63. **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.



64. **CONDITIONAL USE PERMIT:** A written document of certification issued by the Zoning Administrator permitting the construction, alteration or establishment of a Conditional Use.
65. **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.
66. **CONFINED ANIMAL FEEDING OPERATION:** Any lot, pen, pool and/or pond which is used for the confined feeding of animals or fowl for food, fur or pleasure which is not normally used for raising crops and in which no vegetation intended for animal food is growing. For purposes of these Regulations, a Confined Animal Feeding Operation shall be any operation defined herein that has the capacity of 1000 animal units or more, with an animal unit being as defined by the State of Kansas at K.S.A. 65-171d, and amendments thereto.  
**Members wish to include this definition and asked Richards to ask Yearout his reason for proposing to remove it.**
67. **CONSTRUCTION/DEMOLITION LANDFILL:** A permitted solid waste disposal area used exclusively for the disposal on land of construction and/or demolition waste.
68. **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.**
69. **COUNTY:** The Board of County Commissioners of Marion County, Kansas, or its delegated staff, boards or agencies.
70. **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.
71. **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.
72. **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.
73. **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.**
74. **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.
75. **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.
76. **DAY CARE HOME, LICENSED:** **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 age, 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 the other names, or as defined by the state child care regulatory agency.**

77. **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.)
78. **DETENTION CENTER:** A secure residential 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 pending court disposition or placement in an appropriate program.
- DISABILITY:** Is now listed under "Group Home."
79. **DISTANCE:** Horizontal distances, unless otherwise designated.
80. **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.
81. **DOG:** Any canine specie over one (1) year of age.
82. **DRINKING ESTABLISHMENT:** A premises, which may be open to the general public, where alcoholic liquor by the individual drink is served.
83. **DRIVE-IN ESTABLISHMENT:** An enterprise which accommodates the patrons **motor vehicle** and from which the occupants thereof may make purchases, transact business, or view motion pictures or other entertainment. **Members wish to keep "motor vehicle" instead of proposed "automobile."**
84. **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.
85. **DRIVEWAY:** A minor private roadway providing access for vehicles to a single lot, parking space, garage, barn, dwelling, or other structure.
86. **DWELLING:** Any building, or portion thereof, designed or used primarily for residential purposes, including residential-designed manufactured homes, **and modular homes.**  
**Members agreed to leave change as proposed.**
87. **DWELLING, MULTIFAMILY:** A building or portion thereof, arranged, intended or designed for occupancy by three or more families.
88. **DWELLING, SEASONAL:** A residence intended for occasional, **but not permanent,** occupancy.
89. **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.
90. **DWELLING, TWO-FAMILY:** A building or portion thereof, arranged, intended or designed for occupancy by two families.
91. **DWELLING UNIT:** A building or part thereof, containing complete housekeeping facilities for one family.
92. **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.
93. **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. **Members agreed to use the word “area” instead of “room.”**

94. **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.
95. **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.
96. **FAMILY:** One 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.  
**Members asked Richards to have Yearout explain his reasoning for the proposed definition of “Family.”**
97. **FAMILY DAY CARE HOME:** A facility licensed by the State of Kansas to provide children under eighteen (18) years of age with food and lodging for less than twenty-four (24) hours per day. This term is further construed to include similar units with different names.
98. **FAMILY FOSTER HOME:** A facility licensed by the State of Kansas for 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.
99. **FARMERS MARKET:** The seasonal selling or offering for sale at retail of home-grown vegetables or produce, occurring in a pre-designated area, where the vendors are generally individuals who have raised the vegetables or produce, or have taken the same on consignment for retail sale.
100. **FEED LOT, COMMERCIAL:** A livestock feedlot or feed yard 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.
101. **FENCE:** An unroofed barrier or unroofed enclosed structure, including retaining walls.
102. **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.
103. **FLOOD PLAIN:** See Article 12.
104. **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, cellar or attic.  
**Members wish to keep this definition as written, including the word “attic.”**
105. **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.
106. **FOSTER HOME:** A facility licensed by the State of Kansas for the care of four (4) or less persons unrelated to the operator(s).

107. **FOUNDATION, PERMANENT:** A site-built foundation, with or without basement, that meets or exceeds the foundation requirements of the 1988 Edition of the International Conference of Building Officials (ICBO) Uniform Building Code, that portion of which is incorporated by reference herein.

108. **FRONT:** The part or side of any building or structure facing the street or frontage road.

109. **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.

110. **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.

111. **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.

112. **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.

113. **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.

114. **GOVERNING BODY:** The Board of County Commissioners of Marion County, Kansas.

115. **GREENHOUSE:** A translucent enclosure used for the cultivation or protection of tender plants.

116. **GROUP BOARDING HOME OR RESIDENTIAL CENTER OFR CHILDREN:** A facility licensed by State of Kansas to provide twenty-four (24) hour non-secure care for not less than five (5) nor more than 10 persons, between the ages or infancy to 16 years of age, or as defined by the state child care regulatory board.

117. **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.

118. **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 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:

- 1. A physical or mental impairment which substantially limits one or more of such person's major life activities;
- 2. A record of having such an impairment; or,
- 3. Being regarded as having such an impairment.

Such terms do not include current, illegal use or addiction to a controlled substance, as defined in Section 102 of the Controlled Substance Act (21 U.S.C. 802). 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 of felonies in a residential setting.

119. **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 and a total square footage of less than the total square footage of the primary structure.

Richards' requests the wording "a total square footage of less than the total square footage of the primary structure" be included in this definition. Members agreed. Richards also likes the word "temporary" being added here.

Richards would like to add a definition for "temporary," to the list. She suggests the definition should be worded with "less than so many days out of the year." Members asked Richards to ask Yearout about a definition for temporary.

120. **HAULING TRAILER:** A light-duty utility trailer intended for residential use, including open-bed small trailers designed to be towed behind a car or truck.

121. **HAZARDOUS WASTE:** Any waste meeting the definition of K.S.A. 3430 and amendments thereto.

122. **HAZARDOUS WASTE DISPOSAL FACILITY:** Any facility which meets the requirements as defined in K.S.A. 65-3430, as amended.

123. **HIGHWAY:** A road or street designated as a highway by an appropriate local, state or federal agency.

124. **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 traffic-way.

124. **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.

125. **HOME OCCUPATION:** Any occupation or activity which is clearly incidental and secondary to the use of the premises for dwelling.

126. **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, pharmacies, out-patient departments, 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.

Members wish to continue to include the word "pharmacies" in this definition.

127. **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, motel, motor inn, motor lodge, tourist cabin, tourist court, or otherwise.

128. **INDUSTRIAL LANDFILL:** A permitted solid waste disposal area used exclusively for the disposal on land of industrial solid waste.

129. **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.

130. **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.

131. **INTENSITY:** The degree or level of concentration to which land is used for commercial, industrial or any other nonresidential purpose.

132. **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.

133. **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.

134. **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.

135. **KENNEL, BREEDER:** Any place, area, lot, building or structure where more than four dogs are kept for any purposes.

136. **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.

137. **LABORATORY, MEDICAL:** An establishment which provides bacteriological, biological, medical, x-ray, pathological and other similar analytical or diagnostic services.

**Members asked Richards to ask Yearout about Laboratory Testing.**

138. **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.

139. **LAUNDRY:** An establishment where commercial laundry and dry cleaning work is undertaken.

140. **LAUNDRY, SELF-SERVICE:** An establishment equipped with individual coin-operated washing, drying and/or dry cleaning machines.

141. **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.

142. **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.

143. **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.

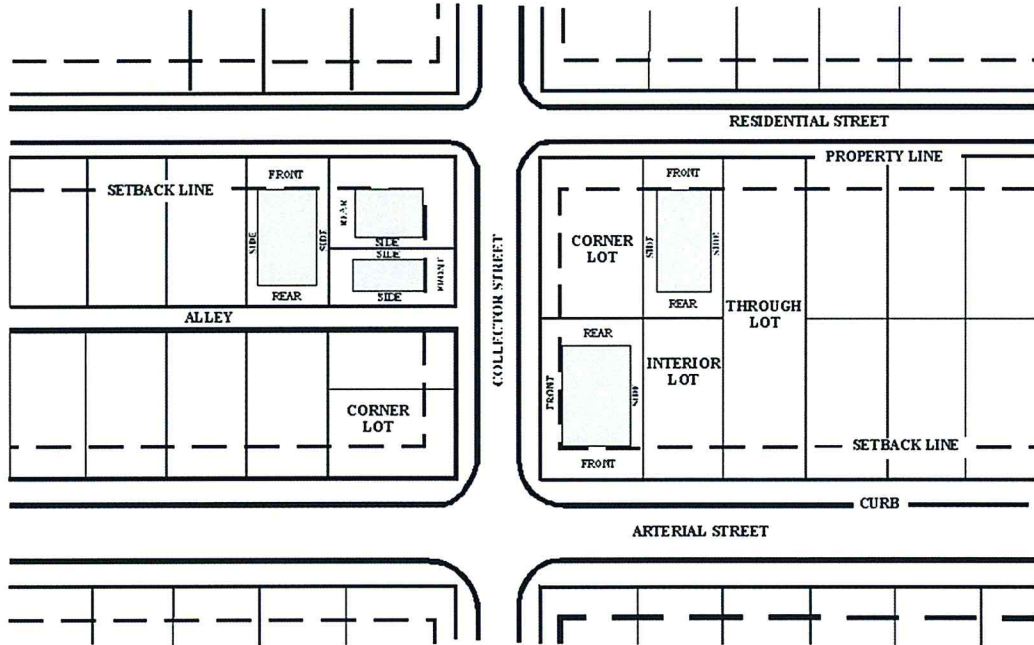
144. **LOADING SPACE OR LOADING BERTH:** A space within the main building or on the same lot as the main building providing for the standing, loading, or unloading of motor vehicles.

145. **LONG TERM CARE FACILITY:** An institution or agency licensed by the State for the reception, board, care or treatment of five (5) or ore unrelated individuals, but not including group boarding homes for minors or group homes for adults.

146. **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.

After discussion, members are okay with the definition for “LOT.”

Figure 1 - Lot Types & Setbacks



147. **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.

148. **LOT, CORNER:** A lot abutting upon two or more streets at their intersection.

149. **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.

Members questioned “excluding projecting roof eaves” and Richards said Article 10-103 does not say “eaves.” Avery asked about fire safety. Richards said several people are waiting for the new regulations, such as for Lot Splits. Richards told members she is respectful of the current regs but feels the need to give people some direction. She said other people are also waiting on changes with Conditional Use Permits (CUP’s). Richards asked for direction on where to measure from, adding that the center of the road is usually okay. Richards said she would like the ability to administratively approve requests if they are out of the county right of way, such as on a dead end road. Richards asked members if they are comfortable with 75 feet, or should it be closer?

150. **LOT, DEPTH OF:** The horizontal distance between the front and rear lot lines measured in the mean direction of the side lot lines.

151. **LOT, DOUBLE FRONTAGE OR THROUGH:** A lot having a frontage on two non-intersecting streets, as distinguished from a corner lot.
152. **LOT, INTERIOR:** A lot whose side line(s) do not abut upon any street.
153. **LOT LINES:** The lines bounding a lot as defined herein.
154. **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.
155. **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.
156. **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.
157. **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.
158. **MANUFACTURE:** Any method of processing, developing, fabricating or assembling either raw material, semi finished materials or parts into semi finished or finished products.
159. **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.**
160. **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.
161. **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.
162. **MANUFACTURED HOME PAD:** That portion of the manufactured home lot on which the manufactured home unit, and any attached awning, is placed.
163. **MANUFACTURED HOME PARK:** An area, parcel, tract, or plot of ground equipped as required for support of manufactured homes and used or intended to be used by two or more occupied manufactured homes, provided the manufactured home spaces shall not be sold or offered for sale individually. The term "manufactured home park" does not include sale lots on which unoccupied manufactured homes, whether new or used, are parked for the purpose of storage, inspection or sale.
164. **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.
165. **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.



166. **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.

Maxwell questioned if members should add a requirement to cover up wiring, and the perimeter of the home, not just the chassis itself. Mount said that people would skirt the home anyway, or it will freeze up. Mueller asked Maxwell to think about this one for the next meeting.

167. **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.

168. **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 (no less than 3:12 pitch)

*Architectural Details:*

- Window Elements

*Manufactured Home Features:*

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

*Figure 3 - Modular Home*



**Residential Character:**

- Pitched Roof

**Architectural Details:**

- Eave Projection

**Modular Features:**

- Modules for on-site

**Permanent Features:**

- Walkway and Stairs

Covered Entry  
Enclosed Garage

Varying Depths  
Ornamental Windows

Formal Landscaping

169. **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.

170. **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 of Hospital-A facility licensed by the State of Kansas but is not licensed as a medial hospital, which provides delivery service for normal, uncomplicated pregnancies, or as defined by the state regulatory agency.

171. **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, 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.

Members asked Richards to ask Yearout if the year is needed in the definition for Mobile Homes, or not.

172. **MODULAR HOME:** A residential structure manufactured off-site and built to a nationally-recognized and accepted construction standard published by the Building Officials & Code Administrators International, Inc. (BOCA) or the International Conference of Building Officials (ICBO) that is inspected and certified at the factory so that it meets said standard. A modular home shall have exterior structure materials and appearance similar to the customary single-family structures, as required of a manufactured home-residential design, and shall be permanently situated on a concrete foundation. A modular home is constructed such that the chassis is not a part of the load bearing support of the structure and, once the home is installed, the chassis is permanently removed from the structure.

173. **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.

Members asked Richards to ask Yearout which Modular Home definition he recommends.

174. **MOTOR HOME:** A portable dwelling designed and constructed as an integral part of a self-propelled vehicle used for recreation.

175. **MOTOR VEHICLE:** A motorized vehicle with rubber tires for use on highways, including passenger cars, pick-ups and trucks.

176. **MOTOR VEHICLE GRAVEYARD:** Any establishment which is maintained, used, or operated for storing, keeping, buying, or selling three (3) or more wrecked, scrapped, ruined, dismantled or inoperative motor vehicles; provided, however, such term shall not include any location where motor vehicle bodies are placed along stream banks for purposes of bank stabilization and soil erosion control, if such placement conforms with guidelines established by the Chief Engineer of the Division of Water Resources of the State Board of Agriculture and has been permitted accordingly.

177. **MOTOR VECHILE, 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 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.

178. **MULTI-FAMILY LAND USE:** The use of any lot or tract of land for two-family and/or multi-family dwellings.

179. **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.

180. **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.

181. **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.

182. **NURSERY:** Any land used to raise trees, shrubs, flowers and other plants for sale or for transporting.

183. **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.

184. **OPEN SPACE:** Usable open space designed and intended for the use of all residents of a residential area, including space dedicated to the public.

185. **OUTDOOR STORAGE:** The storage of goods and materials outside of any building or structure, but not including storage of a temporary or emergency nature.

186. **OVERLAY DISTRICT:** A district which acts in conjunction with the underlying zoning district or districts.

187. **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.

188. **PACKAGE LIQUOR STORE:** An establishment in which alcoholic beverages are sold for consumption off the premises.

189. **PARCEL:** A lot or contiguous group of lots in single ownership or under single control, usually considered a unit for purposes of development.

190. **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.

191. **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.

192. **PERSON:** Any individual, partnership, joint venture, corporation, or other business or legal entity.

193. **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.

194. **PLANNING COMMISSION:** The Planning Commission of Marion County, Kansas.

195. **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.**

196. **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.

197. **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.

198. **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 shooting ranges, and all common appurtenant accessory activities and facilities such as lighting, bleachers, and concession stands, etc.

199. **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.

200. **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.

201. **RESIDENTIAL CENTER:** A **twenty-four (24) hours**, non-secure facility licensed by the State of Kansas providing residential care for more than ten (10) persons **or children** unrelated to the operator(s), **or as defined by the state child care regulatory agency.**

202. **RESTAURANT:** A building wherein food is prepared and sold to the public for human consumption. Restaurant includes, but is not limited to, cafe, cafeteria, grill, pizza parlor, diner, snack shop, hamburger shop and steak house.

203. **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.

204. **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.

205. **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.  
**Members asked Richards to ask Yearout if 10 acres is still okay in the above definition.**

206. **SALE, RETAIL:** The sale of goods, merchandise and/or commodities to the ultimate consumer.

207. **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.

208. **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.

209. **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.

210. **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.

211. **SCREENING:** Fencing or vegetation maintained for the purpose of concealing a building and/or other items from view.

Members wish to continue to include the words “a building and/or other items” in this definition.

212. **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.

213. **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 proved to youth, or as defined by the state licensing agency.

Members stopped here and will begin again with reviewing the definition of “SETBACK.”

Mueller suggested it might help to have a prioritized list for the next work sessions.

Work sessions are scheduled for March 31, 2011, and April 20, 2011, both at 6:30 p.m. (Please note date change. The second work session was originally scheduled for April 21, but has been changed to April 20).

Mueller also noted the next regular meeting is scheduled for April 28, 2011. (Please note a time change for this meeting as it was decided at the March 24, 2011 regular meeting to begin the April 28 meeting at 6:30 p.m. at the Marion County Lake Hall.)

Mount made a motion to adjourn and Schmidt seconded. The special meeting adjourned at 10:12 p.m.

MARION COUNTY PLANNING COMMISSION/BOARD OF ZONING APPEALS

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David Mueller,  
Chairman

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Margo Yates,  
Secretary