

ARTICLE 23. CONDITIONAL USE PERMITS

Section 1. PURPOSE:

This Article provides criteria and procedures for conditional uses which may be properly allowed upon consideration in each case of, among other things, the impact of those uses upon neighboring land and the community.

Conditional uses produce unique and special impacts because of their location, design, life span, size, method of operation, traffic circulation, and similar such characteristics which impact on available or provided public facilities so that each such use must be considered individually.

The Board shall decide whether each such use proposed shall be granted a Conditional Use Permit subject to the general and specific standards contained in this Article and subject to such conditions or restrictions as are reasonable and appropriate to protect the public interest and to secure compliance with the regulations of the County. The Board may deny requests which fail to satisfy standards and requirements contained herein or which are not in harmony with the purposes and interest of these regulations or the health, safety, and general welfare of the County.

Section 2. GENERAL PROVISIONS:

Unless otherwise provided by this Article, only conditional uses as enumerated in this Article may be permitted as provided in this Article in zoning districts from which they are otherwise prohibited, when found to be in the interest of the public health, safety, morals and general welfare of the community.

Prior to the granting of any Conditional Use Permit, the Board, after a public hearing has been held by the appropriate Zoning Board as required by these regulations, may place such reasonable conditions and restrictions relative to the proposed use which address the establishment, construction, maintenance and operation of the conditional use as is deemed necessary for the protection of the public interest and to secure compliance with the standards and conditions contained in this Article, other County regulations, and state and federal requirements. The Zoning Board and the Board may require such evidence as traffic or drainage studies, and security in the form of performance bonds or other similar surety as may be deemed necessary to insure that all the conditions placed on the permit will be fully complied with throughout the term of the permit.

Uses permitted under Conditional Use Permits must abide by all the terms and conditions of the approval of such permit. Failure to comply with the requirements of the permit shall cause the permit to come under the provisions of Section 7 of this Article.

Prior to Board consideration of a Conditional Use Permit application, a public hearing shall be conducted before the Zoning Board as provided in these regulations and a report of the Zoning Board recommendation shall be presented to the Board.

No property, whether land or structure, shall be put to use for any of the specified conditional uses listed herein until and unless a Conditional Use Permit application has been submitted and a permit has been formally approved by the Board as required herein. In the event that conditions or stipulations have been placed on a Conditional Use Permit such that there are affirmative actions that must be undertaken by the applicant or owner prior to the start of the use or occupancy of the property, then such actions shall be fully completed or where appropriate, secured by bond or other similar surety as provided in these regulations, before the use may be commenced or before the

property or structure may be occupied for the conditional use. Failure to adhere to the conditions or stipulations placed on a Conditional Use Permit shall be a violation of these regulations.

Conditional Use Permits shall be issued for a maximum period of not more than ten (10) years from the date of approval unless:

1. A longer or shorter Conditional Use Permit period is required or enabled by these Regulations; or
2. A longer or shorter Conditional Use Permit period is specifically stipulated by the reasonable conditions and restrictions placed on the Conditional Use Permit, after findings have been made based upon certain aspects or circumstances related to the application.

Section 3. APPLICATION REQUIREMENTS:

- A. **Development Plan:** A site plan that includes all of the items listed in Sections 3 and 6 of Article 15 and which complies with the development plan requirements of Articles 11 and 15 must be submitted as part of a Conditional Use Permit application. The development plan must indicate how the proposed use would satisfy the screening, setback, signage, and other such conditional use performance and development standards and zoning regulations as specified for the particular conditional use listed herein.
- B. **Written Narrative Description:** A written narrative description of the proposed use must be submitted by the applicant. If the nature of compliance is not explicitly clear from the information indicated on the development plan, the narrative description shall address how the proposed use would satisfy the performance and development standards and zoning regulations as specified for the particular conditional use listed in this Article. The narrative description shall also address how the proposed use shall meet and comply with the Conditional Use Permit Guidelines in Section 6, (C) of this Article. The narrative description shall also describe the hours of operation, traffic routes and expected traffic volumes, staffing levels, methods of operation, parking, number of months for which the permit is requested, number of months the use is projected to be conducted, whether the character of the use would tend to be seasonal or vary during the duration of the permit, the reasons which appear to make the site in question appropriate for the proposed use, whether and the extent to which the use could cause pollution, the steps to be taken to cause the use to be compatible with other parcels of real property near the site in question, and other such reasonable information about the proposed use that would be necessary or helpful for the impacts of the proposed use to be fully evaluated and considered.
- C. **Conditional Use Permit Application Requirements and Processing Procedures:** Conditional Use Permit applications shall comply with the application requirements and procedures as provided in Article 4 of these regulations. All applicants are encouraged to schedule and hold a pre-application conference with the Zoning Administrator or his or her designee as a first step toward filing and application for a Rezoning, Conditional Use Permit, Preliminary Development Plan, or Preliminary Plat. Arrangements for this conference shall be made by contacting the Planning Office.

Section 4. CONDITIONAL USES WHICH MAY BE APPROVED IN CERTAIN ZONING DISTRICTS:

- A. **GROUP A:** Conditional uses, such as the following, may be approved by the Board in any zoning district other than the Planned Research and Development Park District (PEC-1) and other than in the Planned Adult Entertainment District (PAE) as provided in these regulations:
 1. Accessory buildings or structures larger than; accessory buildings in greater quantities than permitted by Article 18 of these regulations; accessory buildings not clearly consistent with the character of the residential neighborhood; accessory buildings located in the front yard which meet the qualifying conditions set forth in Article 18, Section 6(A)(2)(b) of these

regulations, provided that the provisions of Section 6(B)(12) of this Article are satisfied; and accessory satellite antennae that would not comply with Article 18, Section 6(E) of these regulations.

2. Airports, aviation fields, heliports, and landing fields which would conform with the obstruction surfaces described in Subpart C of Federal Aviation Regulations Part 77, Objects Affecting Navigable Airspace, and under such other reasonable conditions as the Board deems necessary to assure compliance with the provisions of Article 21 of these regulations and provided that the requirements of Section 6, (B)(1) of this Article are satisfied;
3. Athletic field complexes for baseball, soccer, football, track, and the like; arena, fieldhouse, stadium or other spectator sport facility whether for use by schools or universities, or for amateur, professional or recreational league sports;
4. Bed and breakfast establishments;
5. Business retreats, executive conference centers or similar such uses;
6. Cemeteries, mausoleums, crematories, or mortuaries; provided the final development plan for a cemetery or mausoleum is at least a cemetery plat as required by state law;
7. Archery ranges, camps, camp grounds, exposition centers, fair grounds, fishing lakes, horse and livestock show or sales arenas, golf courses, golf driving ranges (commercial or illuminated), gun clubs, miniature golf courses, picnic grounds, rodeo arenas, shooting or target ranges, and the like, operated by private parties and open to the general public either as participants or as spectators;
8. Day-Care Home, Group-Day Care Home, Child-Care Center, Adult-Care Center, Preschool, or Mother's Day Out Program provided the development and performance standards in Section 6 (B)(8) of this Article are satisfied for any such uses in the Rural, Planned Rural, Residential, or Planned Residential districts;
9. Drive-in theaters or outdoor theaters for motion pictures, stage performances, plays, concerts and studios;
10. Fire stations except accessory private fire stations in the Planned Retail Business or Planned Employment Center Districts;
11. Commercial greenhouses, nursery sales area or hydroponic farms operated as a retail business;
12. Hospitals, penal or correctional care institutions, Group Homes Type Two, residential institutions, residential care institutions, or group homes for the mentally ill;
13. Keeping of exotic animals or the keeping of horses, livestock, ponies, or similar such animals on tracts less than two (2) acres or poultry on tracts less than ten (10) acres or in any manner other than allowed by Article 18, Section 7, (A) of these regulations;
14. Kennels, whether breeding or boarding; shelters for domesticated animals; animal boarding, breeding or raising facilities as defined in these regulations, and like facilities other than those for agricultural purposes;

15. Communication antennas, communication towers, or any other structures greater than 60 feet in height, which are not otherwise permitted by these regulations, whether publicly or privately owned, provided that the provisions of Section 6 (B)(4) of this Article are satisfied;
 16. Riding stables or show arena uses at any stable or any boarding stable on any tract smaller than ten (10) acres;
 17. Utility substations, water treatment or distribution facilities, pipeline terminals, telephone switching or transmission stations, power plants, electrical distribution or transformer stations, wastewater treatment plants, and the like; and
 18. Thematic uses, provided that the provisions of Section 6, (B)(10) of this Article are satisfied;
 19. Buildings or structures per Article 17, Section 8 of these regulations; and
 20. Off-premise Real Estate Project Signs per Article 20, Section 6 (C)(2)(b) of these regulations.
 21. Construction of a replacement dwelling unit to replace an existing occupiable main dwelling unit on the same subject property.
- B. GROUP B: In the Planned Rural Retail Business District (PRB-1) or in the Planned Residential Neighborhood Retail Business District (PRB-2) or in the Planned Urban Neighborhood Retail Business District (PRB-3) conditional uses, such as the following, may be approved by the Board:
1. Auction Facilities;
 2. Automotive Repair Shop or Repair Garage;
 3. Farm Machinery and Equipment Sales;
 4. Farm Supplies Store;
 5. Farmer's Market;
 6. Fruit and Vegetable Stands;
 7. Small Equipment Repair; and
 8. Veterinary Clinic for Large Animals.
- C. GROUP C: In the Planned Residential Neighborhood Retail Business District (PRB-2) or in the Planned Urban Neighborhood Retail Business District (PRB-3) conditional uses, such as the following, may be approved by the Board:
1. Any Permitted Use in PRB-3 not specifically referenced as a Permitted Use in PRB-2;
 2. Arcade, Amusement Center, or Game Room where amusement devices are available for use; Dance Halls; Cocktail Lounges, Beer Halls, Clubs, Taverns, or other similar establishments where alcoholic or cereal malt beverages are consumed on the premises but not adult entertainment uses, subject to the standards of Section 6, (B)(6) of this Article;
 3. Bowling Alley/Pool Hall;
 4. Community Centers or Assembly Halls for less than 100 people at any given time;

5. Truck or Equipment Rental.
- D. GROUP D: In the Planned Urban Neighborhood Retail Business District (PRB-3) conditional uses, such as the following, may be approved by the Board:
1. Any retail use not specifically designated as a Permitted Use in districts PRB-1, PRB-2, or PRB-3;
 2. New or Used Car and Truck Sales;
 3. Wholesale establishment or warehouse in a completely enclosed building provided the floor area for such uses shall not exceed twenty thousand (20,000) square feet; and
 4. Zoos, commercial aquariums, aviaries or similar facilities open to the public.
- E. GROUP E: In the Planned Research and Development Park District (PEC-1), the following conditional uses may be approved by the Board:
1. Day-Care Center or Preschool per the Group Q Table in this Article
 2. Accessory buildings or structures larger than or in greater quantities than permitted by Article 18 of these regulations; and
 3. Communication antennas, communication towers, or any other structures greater than 60 feet in height, which are not otherwise permitted by these regulations, whether publicly or privately owned, provided that the provisions of Section 6 (B)(4) of this Article are satisfied.
- F. GROUP F: Oil well drilling and production and gas well drilling and production are allowed in the Rural District (RUR) on tracts 10 acres or larger.
1. In the Rural District, (RUR) on ownership tracts less than ten (10) acres and in the following districts on tracts of any size: the Planned Research, Development, and Light Industrial Park District (PEC-3); and the Planned Industrial Park District (PEC-4); conditional uses, such as the following, may be approved by the Board:

Oil well drilling and production and gas well drilling and production provided that the provisions of Section 6, (B)(7) of this Article are satisfied.
 2. In the Residential Districts and the Planned Residential Districts conditional uses, such as the following, may be approved by the Board:

Gas well drilling and production provided that the provisions of Section 6, (B)(7) of this Article are satisfied.
- G. GROUP G: In any district except the Residential Districts, Planned Residential Districts, the Planned Research and Development Park District (PEC-1) or the Planned Adult Entertainment District (PAE), conditional uses, such as the following, may be approved by the Board:
1. Quarrying, mining, or earthen materials excavation or filling operations, including but not limited to:
 - a. The delivery and placement of greater than 1,200 cubic yards of earth fill material or the excavation and removal of greater than 1,200 cubic yards of any earth excavated from

any property, unless, however, such earth excavation or filling operations are necessary for the construction of a building or structure on the subject property, or

- b. The screening, crushing, washing or storage of clay, gravel, ore, sand, stone, top soil, fill dirt or similar materials, or
 - c. An asphalt or concrete plant, and
 - d. subject to the standards and conditions in Section 6, (B)(3) of this Article.
2. Sanitary landfills; composting yards; waste recycling centers; hazardous waste facilities; refuse transfer stations or waste incinerators serving more than one tract; construction or demolition landfills; burning of brush, trees, man-made items, and the like for more than 3 days or for materials brought from off-site to the property on which they are being burned or disposed of, or other such uses not otherwise prohibited by law and subject to the provisions of Section 6, (B)(5) of Article 23; and
 3. Salvage yards.
- H. GROUP H: In the following two Planned Employment Center Districts: the Planned Research, Development and Light Industrial Park District (PEC-3) and the Planned Industrial Park District (PEC-4), conditional uses, such as the following, may be approved by the Board
1. Automotive Repair Shop, Repair Garage or Machinery Repair Shops for maintenance or repair of vehicles or equipment owned or not owned by the property/business owner.
- I. GROUP I: In the Planned Retail Business Districts (PRB-1, PRB-2 and PRB-3), and in the following two Planned Employment Center Districts: the Planned Research, Development and Light Industrial Park District (PEC-3) and the Planned Industrial Park District (PEC-4), conditional uses, such as the following, may be approved by the Board:
1. Storage Yards for vehicles, materials, or supplies; and
 2. In the above districts and also in the RUR, Rural District, outdoor advertising signs subject to the provisions of Article 20 of these regulations.
- J. GROUP J: In the Rural District, (RUR) conditional uses, such as the following, may be approved by the Board if the requirements of Section 6 (B)(11) of this Article are satisfied, in the Planned Retail Business Districts (PRB-1, PRB-2 and PRB-3), and the following two Planned Employment Center Districts: the Planned Research, Development and Light Industrial Park District (PEC-3) and the Planned Industrial Park District (PEC-4), conditional uses, such as the following, may be approved by the Board:
1. Storage Yards for vehicles, materials, supplies or construction equipment, including construction contractor's shops and construction contractor's yards.
- K. GROUP K: In the Planned Adult Entertainment District (PAE) the following conditional use may be approved by the Board subject to the standards and conditions of Article 32 of these regulations:
1. Adult Cabaret;
 2. Adult Theater; and

3. Juice Bar.

Section 5. USES PERMITTED IN CERTAIN ZONING DISTRICTS AND WHICH MAY BE APPROVED AS CONDITIONAL USES IN OTHER ZONING DISTRICTS:

The following uses are permitted in certain districts as provided herein and elsewhere in these regulations, but may be permitted by the Board as conditional uses in various other districts as provided hereafter:

- A. GROUP L: Churches and schools of general instruction and schools of special instruction are allowed uses in the Planned Retail Business Districts (PRB-1, PRB-2 and PRB-3) and the Planned Research, Development, and Office Park District (PEC-2) and may be allowed in Rural, Planned Rural, Residential, and Planned Residential Districts if approved by the Board as conditional uses. Schools of special instruction may be allowed in Planned Employment Center Districts PEC-1, PEC-3 and PEC-4 if approved by the Board as conditional uses. Such permits may be approved for a period of thirty (30) years, but improvements or uses not specifically included in the permit shall not be allowed unless a new permit is approved.
- B. GROUP M: Manufactured homes are allowed uses in the Planned Residential Manufactured Home Park District (PRMHP) and Planned Residential Manufactured Home Subdivision District (PRMHS) and may be allowed by the Board as a conditional use for temporary, interim, single-family residential purposes in cases of extreme hardship or necessity if a permit is approved as provided herein for all other districts except the Planned Adult Entertainment District (PAE), and if the provisions in Section 6, (B)(9) of this Article are satisfied.
- C. GROUP N: Off-street parking lots or structures are allowed accessory uses in the Planned Retail Business Districts (PRB-1, PRB-2 and PRB-3), and the Planned Employment Center Districts (PEC-1, PEC-2, PEC-3 and PEC-4). Accessory off-street parking lots or structures may be allowed in all other districts except the Planned Adult Entertainment District (PAE) as a conditional use. Off-street parking lots or structures may be allowed as a business use in the Planned Urban Neighborhood Retail Business District (PRB-3), and in the Planned Research, Development and Light Industrial Park District, PEC-3, if a permit is approved by the Board, provided that the setback requirements of the zoning district or the buffering and screening requirements in Article 11, (7)(B) and (C) and Article 16, (3)(A) and (B) of these regulations are satisfied as found to be appropriate requirements during consideration of the Conditional Use Permit and if approved by the Board.
- D. GROUP O: Group Homes Type One are allowed uses in the Rural District (RUR), the Planned Rural District (PRUR), the Low-Density Residential District (RLD), the Residential Neighborhood Two District (RN-2), the Residential Neighborhood One District (RN-1), the Planned Low-Density Residential District (PRLD), the Planned Residential Neighborhood Two District (PRN-2), the Planned Residential Neighborhood One District (PRN-1), the Planned Residential Urban Single-Family 1A District (PRU-1A), and the Planned Residential Urban Single-Family 1B District (PRU-1B) and may be allowed in all other districts except the Planned Adult Entertainment District (PAE) and the following Planned Employment Center Districts (PEC-1 and PEC-4) as a conditional use, if a permit is approved as provided herein, and if the requirements of Section 6 (B)(2) of this Article are satisfied.
- E. Group P: Landscape contractor's shops or yards are allowed uses in the Planned Research, Development and Light Industrial Park District (PEC-3) and the Planned Industrial Park District (PEC-4) and may be allowed as conditional uses in the Planned Rural Retail Business District (PRB-1), and the Planned Residential Neighborhood Retail Business District (PRB-2), or when

associated with a wholesale nursery in the RUR, Rural District, if a permit is approved by the Board as provided herein.

- F. Group Q: Preschools and Day-Care Centers are permitted uses in some zoning districts at certain sizes and subject to development and performance standards and conditions. Preschools and Day-Care Centers may be approved as conditional uses in some zoning districts. The following table establishes these categories:

Zoning Districts			
Preschool or Day Care Center Size	RUR, PRUR, or all residential	Planned Retail Business	Planned Employment Center
Service provided to 6 or fewer children or adults per day.	Permitted accessory home occupation provided the home occupation restrictions and limitations of Article 18 Section 5 are met. If those restrictions and limitations are not met, may be approved as an accessory use if a Conditional Use Permit is approved by the Board. *	Permitted accessory use.* May be approved as a principal use if a Conditional Use Permit is approved by the Board. *	Permitted accessory use except in PEC-1. * May be approved as an accessory use in PEC-1 if a Conditional Use Permit is approved by the Board. * May be approved as a principal use in PEC-2 if a Conditional Use Permit is approved by the Board. *
Service provided to 7 through 12 children or adults per day in a Residence, or to 1 through 12 children or adults per day not in a Residence.	Permitted accessory use within public/semi public facilities such as, but not limited to, churches, schools, and community buildings. * May be approved as a principal use if not in a residence or as an accessory use if in a residence if a Conditional Use Permit is approved by the Board. *	Permitted accessory use.* May be approved as a principal use if a Conditional Use Permit is approved by the Board. *	Permitted accessory use except in PEC-1. * May be approved as an accessory use in PEC-1 if a Conditional Use Permit is approved by the Board. * May be approved as a principal use in PEC-2 if a Conditional Use Permit is approved by the Board. *
Service provided to 13 or more children or adults per day.	May be approved as an accessory use if a Conditional Use Permit is approved by the Board. *	Permitted accessory use.* May be approved as a principal use if a Conditional Use Permit is approved by the Board. *	Permitted accessory use except in PEC-1. * May be approved as an accessory use in PEC-1 if a Conditional Use Permit is approved by the Board. * May be approved as a principal use in PEC-2 if a Conditional Use Permit is approved by the Board. *

* Note: Accessory home occupation Preschools and/or Day-Care Centers shall comply with the home occupation restrictions and limitations of Article 18 Section 5. All other Preschool and/or Day-Care Centers, whether accessory uses or principal uses per the table above shall comply with the development and performance standards of Section 6 (B)(8) of this Article unless a Conditional Use Permit approved by the Board specifically establishes other reasonable and appropriate development or performance standards for the Preschool and/or Day-Care Center.

Section 6. STANDARDS FOR CONDITIONAL USES:

A. General Development and Performance Standards:

1. In General: All uses established by Conditional Use Permit shall operate in accordance with a) the appropriate performance standards contained in this Article and in Article 11 of these regulations, b) the development plan review considerations in Article 15 of these regulations, and c) the Final Development Plan, the Statement of Intent and the description(s) of the use in the record(s) of the Conditional Use Permit application review and consideration proceedings. These performance standards are minimum requirements. However, the Board may add, should the occasion require, more restrictive but reasonable requirements as conditions on the permit to govern particular development or use authorized by the permit.
2. Lot Area, Lot Dimension and Yard Requirements: Any development or use authorized by Conditional Use Permit shall abide by the lot area, lot dimension, and yard requirements of the particular zoning district in which the conditional development or use is located, unless a variance or rule exception is approved as provided in these regulations. However, the Board may add more restrictive requirements by imposing reasonable conditions on the particular development or use authorized by Conditional Use Permit as needed to assure compatibility with the surrounding properties. Certain conditional uses shall also comply with the minimum lot area, lot dimension and yard requirements which are set forth in this Article.
3. Off-Street Parking Requirements: The minimum off-street parking requirements, including required setbacks for parking areas, loading spaces, and internal drives for any development or use authorized by Conditional Use Permit, shall not be reduced below the minimum requirements as set forth in Article 19, Off-Street Parking Requirements of these regulations. However, the Board may add more restrictive requirements as conditions governing the particular development or use authorized by permit.
4. Sign Regulations: Specific sign requirements shall be established in the conditions governing the particular development or use authorized by Conditional Use Permit in accordance with the provisions of Article 20. However, in no instance shall the requirements be less restrictive than the sign regulations of the particular zoning district in which the proposed development or use is located.
5. Trash Enclosures: All facilities shall provide enclosed trash structures either inside or outside of the facility of sufficient size to adequately and sanitarily contain all trash produced by the facility. The management will be responsible for the policing of all trash associated with the operation of the facility.
6. An environmental impact assessment addressing those areas about which the Zoning Board or Board require additional information and which may have the greatest potential for harmful effects on the health, safety, and welfare of the community such as:
 - a. Noise and vibration impacts;
 - b. Water impacts;
 - c. Safety and nuisance potential;
 - d. Geological impacts; and

e. Wildlife impacts.

The environmental impact assessment shall also include baseline data against which actual impacts may be evaluated and shall also include the reasonable and preferred procedure and equipment for mitigating or abating any and all significant impacts. Furthermore, all environmental impact assessments shall be prepared and verified in writing by persons who have recognized expertise in the recognition, evaluation, and control of the subject which is of concern.

B. Special Development and Performance Standards, plus Special Provisions for certain Conditional Uses:

1. Airports, aviation fields, heliports and land fields: An environmental impact assessment shall be provided. See (A)(6) of this Section.
2. Group homes:
 - a. The narrative statement shall describe and quantify the proposed use and indicate the number of persons to be served, the staffing levels, the type of services to be performed and other such information to define the extent of services to be provided and nature of the use proposed.
 - b. The permit shall be subject to all other permits and licenses required of applicable governmental entities including, but not limited to, those from the Johnson County Health Department.
 - c. Sufficient information shall be provided to assure compliance with the following requirements:
 - 1). Off-street parking shall be provided at a rate of one (1) space per employee plus two (2) additional spaces.
 - 2). Adequate potable water supply sufficient for both domestic and fire protection purposes shall be provided.
 - 3). Adequate access and proximity shall exist for both police and fire protection services.
3. Quarrying or mining operations:
 - a. Such conditional uses shall be located nearby or adjacent to major or minor arterial streets capable of handling the expected highway loads of heavy truck vehicular traffic.
 - b. To minimize adverse impact upon surrounding properties and the community at large, all outdoor crushing, sorting, and fixed-location loading or distribution machine operations for rock or stone, and all excavations deeper than ten (10) feet below the natural grade shall be located not less than 400 feet to the nearest property line of adjoining commercial or industrial property, not less than 750 feet from the nearest property line of adjoining rural or residentially zoned property, and not less than 1,000 feet from the nearest residence existing at the time rock processing and handling operations began except as may be otherwise provided in this Section.

To minimize adverse impact upon surrounding properties and the community at large, all outdoor removal, handling, processing and loading or distribution machine activities for top soil or fill soil, and all excavations less than ten (10) feet below the natural grade shall be located not less than 50 feet to the nearest property line of adjoining commercial or industrial property, not less than 100 feet from the nearest property line of adjoining rural or residentially zoned property, and not less than 250 feet from the nearest residence existing at the time soil processing and handling operations began except as may be otherwise provided in this Section.

In addition to the setback requirements in this subsection, the uses shall comply with reasonable stipulated requirements for control of noise, illumination, dust and odors as the Board may determine to be necessary and reasonable for the protection of the public health, safety and welfare of the neighborhood and the community at large.

- c. The initial Conditional Use Permit may be granted for a period not to exceed ten (10) years. Renewal or extensions of said permit shall not exceed periods of ten (10) years each.
- d. All such conditional use operations shall be buffered and screened by a method such as berms and dense landscape plantings, privacy fences, and the like, when the use would be visible from any road, any Residential District or any Planned Residential District.
- e. The permit holder shall utilize dust abatement measures for all unpaved interior roads and equipment and processing areas as required by the conditional use permit.
- f. If the County finds any roads which would be used by the quarrying or mining operation to be inadequate for the expected quantities of traffic, especially with respect to heavy truck traffic, then the applicant may be required to improve and maintain the roads such that the roads will accommodate the anticipated traffic. An Improvement and Maintenance Agreement between the applicant and the County shall be required to assure that the streets used by the operation will be appropriately improved and maintained.
- g. A plan for reclamation of the site shall be prepared and submitted as a part of the application. The plan shall indicate a timetable for the reclamation of the site and a general plan for the proposed future use(s). The reclamation plan submitted shall be binding to the extent required to assure that the phase of the site changes underway during the Conditional Use Permit term shall remain consistent with the reclamation plan which shows the overall intentions of the applicant for reclamation of the site. The reclamation plan also shall guide determinations of the amount of surety to be posted to insure future reclamation of the site. The actual reclamation plan may be amended at such time that the applicant is ready to begin such reclamation; however the reclamation plan must be approved by the Board before reclamation work may begin. Said approval shall require a public hearing under the same procedures as required for the Conditional Use Permit. The applicant shall post a performance bond or other surety acceptable to the Board to insure that the reclamation of the site will occur as required in the reclamation plan for the site alterations proposed to occur during the permit term. The amount of reclamation surety shall be based on the estimated cost of the site reclamation as estimated by a qualified, registered engineer licensed in the State of Kansas and who is acceptable to the County. The amount of the reclamation surety shall be reviewed with each renewal of said permit and may be adjusted to fit then current reclamation cost estimates as prepared by a qualified professional and acceptable to the County.

Waiver: In the event that an applicant desires to deviate from the setback requirement, the application may only be approved if findings are made by the Board of County Commissioners that a) due to the circumstances surrounding the application, it would be unreasonable to require such a setback, or b) it would be reasonable to allow communication towers closer to Residential or Planned Residential District Zoning (e.g., it may be reasonable to reduce the required setback in order to extend the height of an existing tower to promote co-location and to prevent the proliferation of towers). The applicant shall submit written information to the BOCC indicating the circumstances which are believed to necessitate the need for a deviation from the setback requirement; and

- 2). All communication towers shall have a minimum setback from all dwellings (i.e., houses) equal to 50% of the height of the communication tower. The setback area needed to meet the minimum setback requirement shall be obtained by the owner of the communication tower by either a) obtaining ownership of parcel(s) or b) obtaining permanent easement(s) which shall collectively encompass the entirety of the required setback area, except for areas of public rights-of-way.

Waiver: In the event that an applicant desires to deviate from the setback requirement, the application may only be approved if findings are made by the Board of County Commissioners that a) due to the circumstances surrounding the application, it would be unreasonable to require such a setback, or b) it would be reasonable to allow communication towers closer to Residential or Planned Residential District Zoning (e.g., it may be reasonable to reduce the required setback in order to extend the height of an existing tower to promote co-location and to prevent the proliferation of towers). The applicant shall submit written information to the BOCC indicating the circumstances which are believed to necessitate the need for a deviation from the setback requirement; and

- 3). Communication towers shall not have a minimum setback requirement from structures that are not dwellings (i.e., office buildings or warehouses); and
- 4). Unless otherwise approved by the County Engineer:
 - a). All communication towers in any zoning district other than in the Planned Employment Center Districts shall have a minimum setback equal to at least the height of the communication tower from the closest edge of all existing public streets, and
 - b). All communication towers in the Planned Employment Center Districts shall have a minimum setback equal to at least one-half the height of the communication tower from the closest edge of all existing public streets.
- b). The location of associated equipment structures shall comply with the setback requirements for accessory structures of the district in which the communication tower is located.
- c). Co-location of Communication Towers:
 - 1). The service provider shall design and construct communication towers greater than 60 feet in height to be capable of accommodating a minimum of three positions.

Waiver: In the event that a service provider desires to deviate from the co-location requirement, the application may only be approved if findings are made by the Board of County Commissioners that a) due to the circumstances surrounding the application, it would be unreasonable to require the accommodation of additional positions, or b) it would be reasonable to allow construction without additional positions (e.g., in the event that a shorter tower is found to be more compatible with the surrounding neighborhood). The applicant shall submit written information to the Board of County Commissioners indicating the circumstances which are believed to necessitate the need for a deviation from the co-location requirement.

- d. Term of Communication Towers: An initial request for a conditional use permit for a communication tower shall be limited to 5 years. Requests for each renewal period should be limited to 10 years. At the time of renewal the applicant shall demonstrate to the satisfaction of the County that a good-faith effort has been made to cooperate with other service providers to establish co-location at the tower site. Good-faith effort may include, but is not limited to, reasonable and timely response to co-location inquiries from other service providers and sharing of technical information to evaluate the feasibility of establishing co-location. Failure to demonstrate that a good-faith effort has been made may result in the denial of the request for a renewal.
- e. Abandonment of Communication Towers: In the event that the applicant or its successors do not renew their lease option with the landowner, if any; or if there are no communication antennas utilizing the communication tower and the communication tower itself is no longer used for communication services for a period of six (6) months; then a cessation of use shall have occurred, and the communication tower shall then be removed from the property by the applicant or its successors, at their own cost and expense and at no cost to the County, within ninety (90) days of said cessation. If, however, communication antennas are still utilizing the communication tower, then said antennas and the communication tower need not be removed from the property for the remaining term of the conditional use permit provided 1) lease arrangements have been made with the landowner, if any, and 2) the communication antennas utilizing the communication tower remain functional and in operation.
- f. Interference with Public Safety Communications:
 - 1). The Communication Tower, Communication Antenna, and all associated site equipment shall a) operate in full compliance with all Federal Communications Commission (FCC) regulations and requirements, and b) shall be located and operated in a manner which also shall not cause interference with or disruption to public safety communications, including but not limited to police, fire, and emergency services.
 - 2). If public safety communications do experience interference, disruption, or degradation caused or believed to be caused by the location or operation of the Communication Tower or Communication Antennae, then the holder of the Zoning Permit or Conditional Use Permit shall be responsible, immediately upon notification by the Zoning Administrator or the public safety agency, to investigate the cause of the interference, disruption, or degradation and to determine a method or methods to remedy the problem.
 - a). For purposes of cooperating in determining the cause of such interference or disruption, the County shall utilize a Telecommunications Consultant or other qualified individual that provides telecommunication services, including but not

limited to interference analysis, to Johnson County Government and such appendage bodies as police and fire.

- b). Information obtained by the Telecommunications Consultant during the course of determining the cause of the interference or disruption, shall be made available, upon request, to the holder of the Zoning Permit or Conditional Use Permit.
 - 3). If the interference, disruption, or degradation does cause a functional interruption to public safety communications (i.e., the loss of reception or blocking of communication), then the holder of the Conditional Use Permit or Zoning Permit shall, within 24 hours after receiving notice of the disruption, remedy the problem or show to the satisfaction of the Zoning Administrator that the tower or other site equipment is not the cause of the interference or disruption. If the interference, disruption, or degradation causing the functional interruption is not remedied within the 24 hours, then the Zoning Administrator may upon two days written notice to the holder of the Conditional Use Permit or Zoning Permit, set a hearing to show cause why the applicable Permit shall not be terminated and the site equipment, or any component of it that is responsible for said functional interruption, shall not cease operation until the problem is remedied. The hearing shall be temporarily stayed, however, if the holder of the Conditional Use Permit or Zoning Permit seeks immediate technical assistance and advice to remedy the problem from the FCC. But if the holder of the Permit is unable to remedy the problem within two days, despite FCC assistance and advice, then the hearing shall proceed as scheduled.
 - 4). If the interference, disruption, or degradation does not cause a functional interruption of the public safety communications but nonetheless causes sufficient interference to detract from the ability of the public safety agency to communicate, then the holder of the Conditional Use Permit or Zoning Permit shall cooperate in good faith with the public safety agency to develop and implement a solution to the problem. If the Zoning Administrator determines that the responsible party is not cooperating in good faith, then the Zoning Administrator, upon 24 hour notice, may require that the site equipment, or any component of it, cease operation until the problem is remedied.
 - 5). The holder of the Conditional Use Permit or Zoning Permit shall be responsible for the payment of costs to cure the interference, disruption, or degradation, including the fees of any experts retained to identify or correct the problem, except when the cause is determined to be the result of a malfunction of equipment of the public safety agency or is determined to be the result of circumstances which the public safety agency concurs cannot be prudently remedied due to factors outside of the control of the holder of the Conditional Use Permit or Zoning Permit.
- g. Separation of Communication Towers: All communication towers requiring a Conditional Use Permit in accordance with the requirements of Article 23, Section 4 of these regulations, shall be separated by a distance of at least 5,000 feet between the base of each structure.

Waiver: In the event that an applicant desires to deviate from the separation requirement, the application may only be approved if findings are made by the Board of County Commissioners that 1) due to the circumstances surrounding the application, it would be unreasonable to require the separation, or 2) it would be reasonable to concentrate communication towers (e.g., it may be reasonable to locate communication towers closer

together if they are within areas of industrial uses.) The applicant shall submit written information to the Board of County Commissioners indicating the circumstances which are believed to necessitate the need for a deviation from the separation requirement.

h. Design Requirements:

- 1). All communication towers shall be a monopole tower unless a different design is otherwise required to facilitate the co-location of other service providers.

Waiver: In the event that an applicant desires to deviate from the design requirement, the application may only be approved if findings are made by the Board of County Commissioners that a) due to the circumstances surrounding the application, it would be unreasonable to require a monopole design, or b) it would be reasonable to require another type of tower such as a lattice tower. (E.g., a lattice tower can be constructed having greater heights than monopoles. A taller tower might be desirable in order to provide more positions for co-location and to reduce the proliferation of towers.) The applicant shall submit written information to the BOCC indicating the circumstances which are believed to necessitate the need for a deviation from the design requirement.

- 2). The color and design of the communication antennas, communication towers, associated equipment structures, and other structures greater than 60 ft. in height which are not otherwise permitted by these regulations, shall be compatible with surrounding structures or uses in the area or those uses not existing but allowed in the underlying zoning district.

- 3). A fence shall be constructed around the perimeter of all communication towers, other than architecturally designed communication towers. A continuous area of landscaping shall be planted and maintained around the perimeter of the communication tower outside the fence. The landscaping shall consist of evergreen trees at least 5-6 ft. in height at the time of planting and shall be planted 15-25 ft. on center. Existing mature trees shall not be removed in order to plant the landscaping. The plant materials and fencing shall be adequately maintained and replaced when necessary, and the communication tower and communication antennas shall be continuously maintained and painted when necessary, both to occur at the cost and expense of the applicant or its successors, and at no cost to the County.

- i. Leased Parcels: Communication towers may be located upon a leased area of a legally existing parcel, but shall be subject to all the requirements contained within these regulations for communication towers.

- j. Application Requirements: Each application for a Conditional Use Permit for a communication tower or communication antenna shall be accompanied by the reports and plans required by Article 15 (Development Plan Procedures) and Article 23 (Conditional Use Permits) of these regulations. Additionally, the following information shall also be included with the application:

- 1). If the applicant proposes to lease a portion of a parcel, the development plan must indicate the property lines of the entire parcel, the area to be leased, the legal description of the area to be leased, and all structures within the parcel.

- 2). A report containing:
 - a). A description of the capacity of the communication tower, including the number and type of antennas it can accommodate. The description shall include the number of antennas being applied for with the application and the ultimate number of antennas for which the communication tower is designed.
 - b). The minimum height required to serve the desired service area of the communication tower.
 - c). An explanation of the need for the facility to maintain the integrity of the system.
 - d). A photo simulation of the proposed facility from affected residential properties and public rights-of-way may be requested by the Planning Staff.
- 3). Unless the proposed site is within Planned Employment Center or Planned Retail Business District Zoning or is utilizing an existing structure, the applicant shall submit a study comparing potential sites within an approximate one-mile radius of the proposed site. Potential sites shall include, but may not be limited to, existing structures in excess of 100 feet in height and parcels with Planned Employment Center or Planned Retail Business District Zoning. The study shall include a description of the sites, a discussion of the ability or inability of the site/communication tower to accommodate a communications facility and the reasons why the site/communication tower was excluded from consideration. The applicant shall demonstrate that the alternative sites or communication towers are not available due to one or more of the following reasons:
 - a). Unwillingness of the owner to entertain a communications facility proposal.
 - b). Topographic limitations of the site.
 - c). Adjacent impediments that would obstruct adequate communication tower transmission.
 - d). Physical site constraints that would preclude the construction of a communication tower.
 - e). Technical limitation of the system.
 - f). The planned equipment would exceed the structural capacity of existing and approved communication towers and facilities, based on existing and planned use for those facilities. An explanation of why the tower and facilities cannot be modified shall be submitted.
 - g). The planned equipment would cause radio frequency interference with other existing or planned equipment which cannot be reasonably prevented.
 - h). Existing or approved communication towers or facilities do not have space on which proposed equipment structures can be placed so it can function effectively and reasonably.
 - i). The applicant demonstrates that there are other limiting factors that render existing communication towers and structures unsuitable.

- 4). A letter verifying that all guidelines and regulations of the Federal Communications Commission (FCC) and Federal Aviation Administration (FAA) will be met.
- k. Meeting with Staff: Each application for a Conditional Use Permit for a communication tower or a communication antenna as required by Article 23, Section 4, of these regulations shall be accompanied by a meeting with the Zoning Administrator. Arrangements for this conference shall be made by contacting the Planning Department. The applicant or applicant's representative shall present the following information at the meeting and, if requested by staff, to the Zoning Board during the public hearing:
 - 1). A map of the service area of the communication tower, also known as a "propagation map." Staff may also request other propagation maps.
 - 2). A map of the area considered for communication tower location, also known as the "search ring."
 - 3). A map of the applicant's existing communication towers and communication antennas that are within the unincorporated portion of the County, which shall be used to evaluate the need for the facility to maintain the integrity of the system. Other information may be required, if determined to be necessary, such as the height and design of each communication tower and the address or legal description and owner of the parcel on which the communication tower is located.
5. Landfills or waste disposal facilities:
 - a. Such landfills and waste disposal operations shall be located nearby or adjacent to major or minor arterial streets capable of handling the expected highway loads of heavy truck traffic.
 - b. To minimize adverse impact upon surrounding properties and the community at large, all outdoor sorting, loading/unloading, compacting or fixed-location processing, compaction or distribution machine operations for trash, recyclables, and salvageable items, and all fills more than ten (10) feet above the natural grade shall be located not less than 400 feet to the nearest property line of adjoining commercial or industrial property, not less than 750 feet from the nearest property line of adjoining rural or residentially zoned property, and not less than 1,000 feet from the nearest residence existing at the time such operations began except as may be otherwise provided in this Section.

To minimize adverse impact upon surrounding properties and the community at large, all outdoor trash landfilling and recyclable and salvage materials handling, processing and unloading or distribution activities and all fills less than ten (10) feet above the natural grade shall be located not less than 50 feet to the nearest property line of adjoining commercial or industrial property, not less than 100 feet from the nearest property line of adjoining rural or residentially zoned property, and not less than 250 feet from the nearest residence existing at the time soil processing and handling operations began except as may be otherwise provided in this Section.

In addition to the setback requirements in this subsection, the uses shall comply with reasonable stipulated requirements for control of noise, illumination, dust and odor as the Board may determine to be necessary and reasonable for the protection of the public health, safety and welfare of the neighborhood and the community at large.

- c. The initial Conditional Use Permit may be granted for a period not to exceed ten (10) years. Renewal or extensions of said permit shall not exceed periods of ten (10) years each.
- d. All landfill and waste disposal operations shall be buffered and screened by a method such as berms, dense landscape plantings, privacy fences, and the like, when the use would be visible from any public road, any Residential District or any Planned Residential District.
- e. The permit holder shall utilize dust abatement measures for all unpaved interior roads and equipment and processing areas as required by the conditional use permit.
- f. If the County finds any roads which would be used by the landfill operation to be inadequate for the expected quantities of traffic, especially with respect to heavy truck traffic, then the applicant may be required to improve and maintain the roads such that the roads will accommodate the anticipated traffic. An Improvement and Maintenance Agreement between the applicant and the County shall be required to assure that the streets used by the operation will be appropriately improved and maintained.
- g. A plan for reclamation of the site shall be prepared and submitted as a part of the application. The plan shall indicate a timetable for the reclamation to the site and a general plan for the proposed future use(s). The reclamation plan submitted shall be binding to the extent required to assure that the phase of the site changes underway during the Conditional Use Permit term shall remain consistent with the reclamation plan which shows the overall intentions of the applicant for reclamation of the site. The reclamation plan also shall guide determinations of the amount of surety to be posted to insure future reclamation of the site. The actual reclamation plan may be amended at such time that the applicant is ready to begin such reclamation; however the reclamation plan must be approved by the Board before reclamation work may begin. Said approval shall require a public hearing under the same procedures as required for the Conditional Use Permit. The applicant shall post a performance bond or other surety acceptable to the Board to insure that the reclamation of the site will occur as required in the reclamation plan for the site alterations proposed to occur during the permit term. The amount of reclamation surety shall be based on the estimated cost of the site reclamation as estimated by a qualified registered engineer licensed in the State of Kansas and who is acceptable to the County. The amount of the reclamation surety shall be reviewed with each renewal of said permit and may be adjusted to fit then current reclamation cost estimates as prepared by a qualified professional and acceptable to the County.
- h. All landfill, waste disposal or processing areas shall not endanger abutting or adjoining properties. A minimum setback of four hundred (400) horizontal feet from any property line, measured on the surface shall be provided and maintained free of any waste disposal or landfilling activity unless other setbacks are verified in writing to be appropriate by a registered engineer licensed in the State of Kansas and are approved with the permit.
- i. No building, equipment, disposal material or cover material shall be erected or stored within one hundred (100) feet of any nearest property or right-of-way line.
- j. The applicant's operation shall be inspected by the County staff on or before July 1st of every second (2nd) year following approval of the permit. Said inspection shall evaluate compliance with the above listed requirements and the conditions on the particular permit. If the operation is found to be in violation, the permit may be canceled after a hearing has been granted by the Board as provided in Section 7 of this Article if the

noncompliance is not corrected immediately for items involving potential safety hazards, or, for items not involving potential safety hazards, within sixty (60) days of written notice from the County. Said written notice shall itemize the violations and corrective measures necessary for compliance.

- k. An environmental impact assessment shall be provided. See (A)(6) of this Section.
6. Arcade, amusement centers or game rooms; dance halls, cocktail lounges, beer halls, clubs, taverns, or other establishments where alcoholic or cereal malt beverages are consumed on the premises:
- a. Location: A Conditional Use Permit may be granted when the distance between the property line of the facility within which the operation is located and the property line of the nearest Rural, Planned Rural, Residential, or Planned Residential zoned property is over 200 feet.
 - b. Parking: No Conditional Use Permit will be granted unless on-site parking is available in the following quantities:
 - 1). One parking space for each two occupants calculated by the County adopted building code standards.
 - 2). Parking shall be available for assignment solely to the proposed establishment and cannot be counted for other establishments except in the case of shopping centers with the gross floor area of all buildings greater than 300,000 square feet in size.
 - c. Time Period: The initial Conditional Use Permit may be granted for a period of up to 12 months with renewals granted for additional one-year periods, provided all standards of performance are being met.
 - d. Noise: In no event shall the noise generated by the operation or its patrons exceed 60 dB(a) at any point along or adjacent to a residential property line.
7. Oil and Gas well drilling and production:

A Conditional Use Permit may be issued before, during or after initiating the "intent to drill" requirements under the rules and regulations of the Kansas Corporation Commission. In no instance shall drilling, regular pumping, site preparation for pumping or other well production actions be undertaken except in compliance with the following:

- a. The KCC shall be notified and invited to comment on each oil and gas well conditional use permit.
- b. Oil and Gas Well Minimum Standards:
 - 1). Tract Size: The minimum Conditional Use Permit tract size for oil production shall be ten (10) acres which may be attained by pooling tracts owned by more than one person. The applicant shall have and provide the written authorization to represent all owners of real property within the Conditional Use Permit tract. In determining the ten (10) acre area for oil well drilling and production, the applicant may include any public street right-of-way. A Conditional Use Permit for gas well drilling and production shall not have a tract size requirement.

- 2). Drilling Location and Area: The drilling location except for injection wells shall be no closer than one hundred sixty-five (165) feet from any point of the tract boundary line and no closer than one hundred sixty-five (165) feet to any public street right-of-way. Injection wells may be located on the boundaries of the Conditional Use Permit tract.
- 3). Well Location:
 - a). Oil wells shall not be drilled within two hundred (200) feet of any existing residence or other place of habitation, and new residences or other habitable structures shall not be built within two hundred (200) feet of any oil well that is in production.
 - b). Oil wells shall not be drilled within three hundred (300) feet of any building used as a place of public assembly, institution or school.
- 4). Storage Tank Locations: Storage tanks for oil wells shall not be located within twenty (25) feet of any right-of-way narrower than fifty (50) feet from centerline and shall not be located within five (5) feet of any right-of-way fifty (50) feet from centerline or wider. Storage tanks shall be provided with containment features such as impermeable spillage retaining basins, double-wall tank construction, and the like to fully contain the contents of the tank and prevent spillage of the material stored onto the surrounding land and particularly into the ground or surface water supplies.
- 5). Gas compressor and their related storage tanks shall not be located within one thousand (1,000) feet of any residence.
- 6). Gas compression stations shall not be construed, nor interpreted as being permissible accessory uses to gas wells but may be specifically approved by the Conditional Use Permit.
- c. Oil and Gas Well Review Guidelines: In reviewing an application for a Conditional Use Permit for oil or gas well drilling and production, the Zoning Board and Board shall consider at least the following factors:
 - 1). The location of the drilling/production area in relation to adjacent developed areas and platted residential subdivisions within the County.
 - 2). The location of the drilling/production area with respect to the lease/tract line.
 - 3). The location of the drilling/production area in relation to existing residences, other structures, and public rights-of-way.
 - 4). The operating characteristics of the oil wells and the gas wells.
 - 5). The effect on existing or future development by the granting of a Conditional Use Permit.
 - 6). The existing land use of the subject tract and adjacent properties.
 - 7). The time period requested for said permit, or extension thereof, on the subject tract in conjunction with the anticipated time period for the planned development of adjacent properties.

- 8). The fire prevention and protection measures proposed.
 - 9). The waste and combustible materials control measures proposed.
 - 10). General safety and security measures proposed.
 - 11). General spill control and countermeasures proposed.
 - 12). General environmental control measures proposed for protection of water.
8. Day-Care Home, Group Day-Care Home, Child-Care Center, Pre-School, Mother's Day Out Programs, Adult-Care Center and similar such uses:
- a. If operated at a residence, any Day-Care Center, or Pre-School, or similar such use shall comply with the following:
 - 1). Shall not utilize more than one individual person per day as an employee other than those individual persons acting as employees who are immediate family members and who reside on the premises.- In the case of emergency situations when the owner or operator or an immediate member of the family cannot provide the educational, instructional, child-care or adult-care programs, one additional employee may be permitted to conduct these established programs, provided such occurrence does not become a regular event, at which time a new Conditional Use Permit must be obtained.

As a part of the Conditional Use Permit application, an applicant may request that additional employees be permitted for operation of the day care center or pre-school. The Zoning Board and/or the Board may permit additional employees when necessary to meet state or county licensure requirements and when the Zoning Board and/or Board determines that such additional employee or employees will not adversely impact neighboring properties, traffic flow or congestion, parking restrictions, or other land use compatibility considerations.
 - 2). The maximum number of individual persons receiving care or educational activities, or otherwise attending the facility shall not exceed 12 individual persons per day. As a part of the Conditional Use Permit application process, an applicant may request that the number of individual persons be increased for the facility, and the Zoning Board or Board may permit a greater number of persons whenever the Zoning Board of Board determines that such additional individual persons will not adversely impact neighboring properties, etc.

The Zoning Board and/or Board may limit the number of individual persons cared for to a lesser number than 12 whenever the Zoning Board and/or Board determines that the lesser number is reasonably necessary to ensure compatibility of the conditional use with surrounding properties and/or to minimize adverse impacts upon surrounding properties arising out of the conditional use.
 - 3). The owner of a Day-Care Center operated at any residence in the Rural District, the Planned Rural District, or in any Residential or Planned Residential District shall occupy the structure as their private residence.

- 4). Only one (1) non-illuminated ground or wall sign not more than two square feet in sign area may be used at the residence containing the use.
 - 5). In establishing greater or lesser quantities of employees and persons being served, the Zoning Board and the Board may find that the impact on neighborhood properties such as traffic levels, ingress and egress, location of drop-off and pick-up, amount of off-street parking, access to arterial streets, and screening of outdoor play areas from adjacent properties has been adequately addressed.
 - 6). If the Zoning Board and Board finds that neighborhood properties have been detrimentally affected, they may, as part of the renewal or reconsideration, require the number of employees and persons receiving care or learning experiences to be reduced and traffic may be restricted to assure compatibility with surrounding land uses, safe ingress and egress, and safe drop-off and pick-up. Additional off-street parking and screening of outdoor play areas from adjacent properties may be required.
- b. If operated within public/semi-public facilities such as, but not limited to, churches, schools, and community buildings, any Day-Care Center or Preschool or similar such use shall comply with the following:
 - 1). Any signs shall comply with the requirements for Institutional Signs in the zoning district as provided in Article 20 of these regulations.
 - c. All Day-Care Center or Preschool and similar such uses, regardless of where they are operated, shall be subject to the following:
 - 1). The Conditional Use Permit should be granted for an initial period of time of 12 months, however, initial permits and permit renewals may be granted for a maximum period of time not to exceed five years per permit or permit renewal.
 - 2). All registration and licensing requirements of the Johnson County Health Department must continually be satisfied during operation of the facility.
 - 3). Off-street parking and loading spaces shall be provided at least as follows:
 - a). One space for each employee expected to be on-premises at any one time during a routine day of operation.
 - b). One space for each five (5) persons being provided services on-premises at any one time during a routine day of operation.
9. Manufactured Homes not in Planned Residential Manufactured Home Park District or Planned Residential Manufactured Home Subdivision District:
 - a. Not more than one (1) manufactured home unit may be placed on the property and it shall be used solely for single-family residential purposes under instances of “extreme hardship or necessity.”

For the purposes of this section, the phrase “extreme hardship or necessity” shall mean a situation which arises from unforeseen conditions, which result in a great or severe need which is essential. A situation where the placement of a manufactured home unit on the property is not merely a matter of convenience nor an option which is merely preferred

by the applicant or such person's family. For purposes of illustration only, extreme hardship or necessity may exist when:

- 1). a permanent residence on the property has been rendered uninhabitable due to damage from fire, wind, flood or other natural disaster or other unforeseeable catastrophe, which results in the partial or total destruction of the permanent residence, making it unfit for human habitation.
- b. The applicant shall clearly state in writing the facts giving rise to the alleged extreme hardship or necessity. The applicants for such Conditional Use Permits shall secure and submit:
 - 1). Documents that support and verify the alleged extreme hardship or necessity; and
 - 2.) A written statement that the manufactured home shall be used only as an interim dwelling, and an explanation of the measures being pursued for a long-term solution of the extreme hardship or necessity.
- c. Such Conditional Use Permits may be granted for a term up to one (1) year, which shall commence from the date of approval by the Board and such Conditional Use Permits shall not be eligible for renewal. The permit, however, may be canceled by the Board after notice and a hearing as provided in Section 8 of this Article, or if the reason for the extreme hardship or necessity shall cease to exist, before the end of the permit term. Notwithstanding the above, one (1) administrative extension of the permit term may be issued by the Zoning Administrator upon expiration of such Conditional Use Permits provided (i) the extreme hardship or necessity still exists; and (ii) there has been satisfactory progress made toward long-term resolution of the extreme hardship or necessity. The issuance of such an administrative extension at the end of an expired Conditional Use Permit shall enable the manufactured home to continue to be occupied as a temporary, interim, single-family dwelling for not more than one (1) additional term of not more than six (6) months, but it shall not be construed as enabling an application for renewal of the previous Conditional Use Permit nor shall it be construed as enabling an application for another Conditional Use Permit for a manufactured home as temporary, interim, single-family housing. Applications for the administrative extension shall be submitted in writing to the Zoning Administrator.
- d. Such manufactured home unit shall be maintained in a safe and sanitary condition.
- e. All manufactured homes placed in unincorporated Johnson County, Kansas, shall either:
 - 1). have been manufactured after September 1, 1973; or
 - 2). be certified as being in compliance with the "Uniform Standards Code for Mobile Homes" and Recreational Vehicles K.S.A. 75-1211 *et seq.* and any amendments thereto, if any.
 - 3). Should the manufactured home have been built prior to September 1, 1973, the owner of the home shall show sufficient evidence and verification to the Zoning Administrator that the home is in compliance with the above-referenced code. If a manufactured home is in compliance with the above-referenced code, the Board shall not require the home to comply with any building, plumbing, heating or electrical code other than the code established in K.S.A. 75-1211 *et seq.*, and any amendments thereto, if any. However, manufactured homes shall be subject to the zoning

regulations of the Board. If the home is not in compliance with the above-referenced code, the Board shall require the home to comply with the Board's building and other similar applicable codes.

- f. When "the hardship or necessity" is related to the construction or reconstruction of a permanent residence, the Board may require that the applicant post a performance bond or secure a valid building permit for a permanent residence before the manufactured home may be placed on the property.
 - g. The site installation and connection of the manufactured home shall comply with all applicable manufactured home setup and installation requirements including any applicable building code requirement regarding the installation of utility connections to the unit and the flood plain regulation structure elevation requirements.
 - h. Anchoring and tie-down facilities to secure and tie-down the manufactured home against uplift, sliding, rotation and overturning shall be installed before any manufactured home is occupied.
 - i. Manufactured homes authorized by Conditional Use Permits shall be located behind the existing main dwelling on the property, unless placement behind said dwelling would be extremely difficult due to site features such as, but not limited to, steep slopes, other existing buildings or structures, floodplains, and the like. Manufactured homes which are not located behind the existing main dwelling shall be set back from adjoining street rights-of-way at least one hundred (100) feet. All manufactured homes shall be set back at least fifty (50) feet from the boundary lines of all adjacent properties which contain existing residences. Manufactured homes authorized by Conditional Use Permit should be placed in locations where existing landscaping or landforms would fully screen the manufactured home from the view of public roads, and of adjacent properties which contain existing residences.
10. Thematic land uses shall have special location or topic characteristics, shall meet reasonable value measures, and shall be uses that are appropriate with regard to public health, safety and welfare considerations. In these regards, thematic use Conditional Use Permits shall be subject to appropriate stipulations that would be reasonable to the public as well as to the private sector. Thematic land uses also shall not be primarily profit driven, but they shall have real and measurable public value and purpose, and "profits" of the operations shall enable some public value and purpose. Thematic land uses generally:
- a. Shall not be open more than 6 hours per day,
 - b. Shall not be open more than 4 days per week,
 - c. Shall not operate more than 6 months per year unless they fully comply with items "a" and "b" above,
 - d. Shall comply with all health, safety and sanitation codes,
 - e. Shall comply with all local building codes,
 - f. Shall not cause traffic volumes which would exceed the reasonably defined capacity of available roads,

- g. Shall provide off-street parking that complies with the zoning regulations unless distinct exceptions are found to be warranted and approved as exceptions to the regulations,
- h. Shall be subject to site development plan reviews and approvals before building permits are issued,
- i. Shall comply with the flood plain regulations and shall not propose uses in flood plain areas which could endanger people or property,
- j. Shall comply with height, area and bulk requirements of the zoning regulations,
- k. Shall comply with applicable subdivision regulations, and
- l. Shall be quantifiable as relates to "public value and purpose" in one or more of the following:
 - 1). Is an educational opportunity, awareness or program.
 - 2). Is an artistic, cultural, historic opportunity, awareness or program.
 - 3). Is a social or scientific opportunity, awareness or program that has redeeming public value and purpose.

11. Contractor shops, storage yards shall meet or exceed the following:

- a. Contractor's shop, storage yard uses in general:
 - 1). The contractor's shop, storage yard shall be a setback of at least 50 feet from all property lines of the site or the Official Street Line as adopted by the County, if applicable.
 - 2). The contractor's shop, storage yard shall not cause unnecessary hazards for other traffic on roads whether as a result of:
 - a). heavy vehicle weights, wide loads, slow vehicles, numerous vehicles with large turning radii, large numbers of additional vehicle trips, and so on, or
 - b). the optimum traffic capacities and reasonable safety limitations of the roads to be used by the contractor's shop, storage yard use, or
 - c). any combination the above.

Evaluation of this criteria shall be based on study and review of the characteristics of each contractor shop, storage yard use proposal and consideration of the characteristics of the roads to be used thereby. Findings as to the appropriateness or inappropriateness of the road hazard potentials in general shall be made.

- 3). Available water flows should meet the Fire Code requirements and the facility shall meet all other applicable life safety codes.
- 4). A Road Maintenance and Improvement Agreement (Road Agreement) with surety acceptable to the County Attorney may be required before the use begins based on recommendations of the Public Works Department. The Road Agreement shall be

subject to review and renewal at not more than five (5) year intervals during the term of the Conditional Use Permit. If the optimum capacity or the reasonable safety limitations of the roads used by the conditional use would be met during any effective period of the Road Agreement, either the intensity of the conditional use shall be reduced or the roads shall be improved so the traffic volume does not exceed the optimum capacity or the safety requirements of the roads used by the conditional use.

- 5). Storm water runoff from the site shall be detained on site to prevent downstream flooding and damage, and it shall be retained on site as may be necessary to contain silt and sediment and to prevent pollution off site.

b. Contractor's shop, storage yard uses in the Rural District (RUR):

- 1). Shall be located on a tract with at least 10 acres, and the primary residence of the owner of the contractor's shop, storage yard shall be on the same or a contiguous tract as the contractor's shop, storage yard.
- 2). Special Restrictions for Buildings for Contractor Shop/Storage Yard Uses in the Rural District (RUR):
 - a). To the greatest extent practicable, the use shall not require new buildings or structures, but shall be conducted inside buildings.
 - b). Any buildings or structures for the use shall not be of greater construction quality than that which might be commonly found for agricultural accessory buildings and uses; the building shall not be occupied by any activity that would require greater construction quality than typical for agricultural accessory buildings in order to meet the Building Code requirements.
 - c). Any building for the use shall be buildings that existed before the adoption of these regulations.
 - d). Any building for the use shall be clearly accessory to the main use of the property as a residential property.
 - e). The total main floor area of the accessory building shall not exceed 3,600 square feet for each full 10 acres of tract area. This maximum building size restriction shall not be pro-rated for increments of 10 acres in tract area.
 - f). The building shall have a rural or residential accessory appearance, and it shall have exterior materials, finishes, and colors such as are typically found in rural and residential areas in the county.
- 3). All outside storage areas shall be fully screened from view from all residential properties, but the storage areas need not be screened from view from the residence on the property on which the use is located. The screening shall be provided by land forms and landscape plantings, but fences or screening walls built of the same materials as typically used near residential buildings in the area may be used if approved on the Preliminary and the Final Development Plan for the Conditional Use Permit.

- 4). Special Restrictions for Lighting:
 - a). Outside lighting shall not cast illumination greater than that of moonlight as measured along any property line.
 - b). The illuminated lenses of outside lighting fixtures shall not be visible from any other nearby property or road.
- 5). The contractor's shop, storage yard use shall not occupy any front yard nor shall it occupy any exterior side yard of a corner lot.
- 6). The contractor's shop, storage yard should be located in an area of the county where future land use plans adopted by either the County or a nearby city which could reasonably be expected to someday have zoning and subdivision development control of the site indicate that the general location of the contractor's shop, storage yard site would be a business use area in the future.
- 7). The Conditional Use Permit shall expire if the property is rezoned to the Planned Rural District or to any residential district or if the lot size is reduced-below the required minimum lot size in the RUR, Rural District.
- 8). The principal use of the property shall be residential. The contractor's shop, storage yard use shall clearly be incidental to the principal use of the property as a rural residential property.
- 9). Except for signs as allowed for home occupation uses, there shall be no signs for the contractor shop, storage yard.
- 10). The contractor's shop, storage yard use shall be conducted in a manner to maintain and preserve the rural, residential character of the neighborhood.
- 11). Except in emergencies, activities that cause noise, odor, smoke, illumination, heat, vibration or similar effects shall not occur at a contractor's shop, storage yard earlier than 5:30 A.M. nor later than 10:30 P.M.
- 12). For purposes of a landscape contractor shops or yards, a wholesale nursery shall be deemed to occur when:
 - a). A lot of at least ten (10) acres in size upon which at least three (3) acres are used to raise trees, shrubs, flowers or other plants for shipment or sale in bulk quantity usually for wholesale or bulk distribution, but not retail, and
 - b). young trees, shrubs, flowers or other plants are placed in the ground and are left to grow or mature for a period of at least one growing season before being sold in quantities for resale or to other than the end user, and
 - c). if balled and burlapped or container-grown trees or shrubs are stored on-site, whether above or below ground, they are only a minor aspect of the use,

c. Conditional Use Permit review

- 1). During review of any Conditional Use Permit for a contractor's shop, storage yard, the Zoning Board and Board shall determine whether the impact on neighboring

properties has been adequately addressed. Impacts considered shall include, but not be limited to, numbers of employees, traffic levels, types of vehicles, vehicle trip routes, ingress and egress, off-street parking, access to arterial streets, and manner and hours of operation.

- 2). If the Zoning Board and Board finds that neighborhood properties have been detrimentally affected, they may, as part of the renewal or reconsideration, limit the conditional use.

Limitations placed on the conditional use may require the number of employees to be reduced, traffic to be restricted to be compatible with nearby land uses and for safe ingress and egress. Traffic controls may include, among other things, limits on the quantities and sizes of vehicles, the number of daily vehicle trips, the routes used for traffic to and from the conditional use, and so on. Additional off-street parking and screening from adjacent properties may be required, and the manner and hours of operation may be controlled.

12. Accessory buildings proposed to be located in the Front Yard, per the qualifying conditions of Article 18, Section 6(A)(2)(b) of these regulations. In determining whether accessory buildings or structures should be allowed, consideration shall include, but not be limited, to the following criteria:

- a. Should be constructed of similar or compatible materials and have an appearance and scale (e.g., height and bulk) compatible with the residence on the property and residences on nearby properties, so as to not cause substantial adverse visual or other negative impacts to surrounding properties; and
- b. May be required to be screened or landscaped (e.g., fencing, trees, shrubs, berm), if necessary.

- C. Guidelines for Issuance of Conditional Use Permits: The Zoning Board shall not recommend that a Conditional Use Permit be granted unless, based upon the evidence presented to it in each specific case, it has considered the following:

1. That the granting of any Conditional Use Permit is in harmony with the general purpose and intent of these regulations, and will not be injurious or detrimental to the public health, safety, and general welfare.
2. That the granting of the Conditional Use Permit will not:
 - a. Impair an adequate supply of light and air to adjacent property;
 - b. Unduly increase hazards from fire or other dangers.
 - c. Increase traffic on streets or highways beyond their capacity;
 - d. Unduly increase the potential for flood damages to adjacent property or lead to additional public expense for flood protection, rescue or relief;
 - e. Otherwise unduly impair the public health, safety, comfort, morals or general welfare of the inhabitants of the County, or otherwise create a nuisance or nuisance-like situation; or
 - f. Pollute the air, land or water.

3. That the conditional use:
 - a. Will be designed, constructed, operated, buffered, screened, and maintained to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such use will not be incompatible with the character of the area.
 - b. Will be compatible with and not be hazardous or unduly disturbing to existing or planned future neighboring uses and zoning.
 - c. Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and wastewater disposal; or that the persons or agencies responsible for the establishment of the proposed use shall agree to adequately provide any such essential facilities and services. With respect to this standard, the minimum infrastructure requirements in Article 31 of these regulations shall be guidelines for interpretation of the minimum infrastructure required for each conditional use.

Each conditional use shall be considered with respect to the infrastructure available and whether additional or improved infrastructure would be needed for the proposed conditional use. If additional or improved infrastructure would be needed, a conditional use permit may be approved if the applicant shall comply with Article 31, Section 2, (C) (1) and (2).

- d. Will not create excessive additional requirements at public cost for public facilities and services.
- e. Will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to nearby persons or property or the general welfare of the community by reason of excessive production of dust, fumes, glare, illumination, noise, odors, smoke, traffic, or vibration.
- f. Will have vehicular approaches to the property which are so designed and would be provided to prevent an interference with traffic on surrounding public arterial streets.
- g. Will not result in the destruction, loss, or damage of a natural, scenic, aesthetic or historic feature of major importance.
- h. Will comply with the lot, yard, and open space; sign; and off-street parking and loading space requirements of these regulations unless otherwise specifically granted.

Section 7. REVOCATION OF CONDITIONAL USE PERMITS:

In addition to other remedies provided by these regulations, any Conditional Use Permit for the operation of the above referenced uses may be revoked at any time by the Board if the applicant is notified in writing and granted a hearing as provided in this Section, when there has been a determination by the Zoning Administrator that:

- A. The applicant has made material misrepresentations or false statements of fact in the application, or
- B. The provisions or conditions of this Article or these regulations have been violated, or



- C. The standards of performance, conditions placed on the use as part of the permit approval process are not being met, or the use is not complying with any other County regulations applicable to the operation of such uses.

Prior to revocation of a Conditional Use Permit, a written notice that a violation has occurred shall be mailed to the permit holder. That notice shall afford the permit holder a specified time period to abate the violation and shall further grant the permit holder a hearing before the Board.

Section 8. CONDITIONAL USE CATEGORIES BY ZONING DISTRICTS (CHART)

DISTRICTS	RUR	PRUR	RLD	RN-2	RN-1	PRLD	PRN-2	PRN-1	PRU-1A	PRU-1B	PRU-2	PRU-3	PRU-4	PRMHP	PRMHS	PRB-1A	PRB-1	PRB-2	PRB-3	PEC-1	PEC-2	PEC-3	PEC-4	PAE
	MIN. AC.	10	4	3	2	1	3	2	1	.46	.23	.23	.1	.08	.1	.17	2	-	-	-	-	-	-	-
A																A1								
B																B1								
C																								
D																								
E																								
F	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S							S	S	
G	S	S															S	S	S		S	S	S	
H																								
I																								
J	S																							
K																								S
L																	P	P	P	SC	P	SC	SC	
M	S	S	S	S	S	S	S	S	S	S	S	S	S	P	P		S	S	S	S	S	S	S	
N	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S		P	P	P	P	P	P	P	P
O	P	P	P	P	P	P	P	P	P	P	P	S	S	S	S		S	S	S		S	S		
P																							P	P
Q	PA	PA	PA	PA	PA	PA	PA	PA	PA	PA	PA	PA	PA	PA	PA		PA	PA	PA	PA	PA	PA	PA	PA

LEGEND

-  CUP REQUIRED FOR USES IN THIS CONDITIONAL USE GROUP IN THESE ZONING DISTRICTS.
 - S CUP REQUIRED, AND STANDARDS MUST BE MET.
 - SC SCHOOLS OF SPECIAL INSTRUCTION ALLOWED WITHOUT CUP IN THESE DISTRICTS.
 - P USES AS IN THIS GROUP ALLOWED IN THESE DISTRICTS.
 - PA USES IN THIS GROUP ALLOWED AS ACCESSORY USES IN THESE DISTRICTS AND CERTAIN SIZES SUBJECT TO DEVELOPMENT AND PERFORMANCE STANDARDS AND CONDITIONS. USES IN THIS GROUP OTHERWISE MAY BE PERMITTED IF A CONDITIONAL USE PERMIT IS APPROVED.
 -  CONDITIONAL USES SUCH AS IN THIS GROUP NOT APPROVABLE IN THESE DISTRICTS.
- A1 CUPS MAY BE APPROVED FOR THE FOLLOWING CONDITIONAL USES FROM GROUP A:** No. 4. Bed and breakfast establishments; No. 5. Business retreats, executive conference centers or similar such uses; and No. 8. Day-Care Home, Group Day-Care Home, Child-Care Center, Adult-Care Center, Preschool, or Mother's Day Out Program provided the development and performance standards in Section 6(B)(8) of Article 23 are satisfied.
- B1. CUPS MAY BE APPROVED FOR THE FOLLOWING CONDITIONAL USES FROM GROUP B:** No. 5. Farmer's Market; No. 6. Fruit and Vegetable Stands; and No. 7. Small Equipment Repair.