

Article 16. Supplemental Use Regulations

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Section 16.01 **PURPOSE AND INTENT.**

The purpose of the supplementary use regulations is to provide additional regulations for specific uses. Compliance with all applicable supplementary regulations shall be required for any activity listed herein prior to any development or use of the land.

Section 16.02 **AIRPORTS AND HELIPORTS.** Airports and airplane landing fields and/or heliports, public or private, shall meet the following criteria.

1. The use in question shall meet all requirements of the Federal Aviation Administration for the particular class of field proposed to be developed.
2. The airport or airplane landing field shall not be located within one (1) mile of any residential zoning district. Any runway or other landing spaces shall be located and oriented so that aircraft leaving or arriving do not normally pass directly over a residential district at a height less than 200 feet.
3. An airstrip maintained for property owner's personal use or crop spraying shall be held to be incidental to the use of the property and is not subject to these regulations.

Section 16.03 **ADULT ENTERTAINMENT.** (See K.S.A. 12-770)

A. **Adult Entertainment or Adult Uses**

1. **Where Permitted.** An adult entertainment or adult use shall only be permitted in the RDS, Rural Development and Service District, subject to the location restrictions below.
2. **Location Requirements.** An adult entertainment or adult use must be located 1,000 feet from the following:
 - a. Public or private school.
 - b. Place of worship.
 - c. Park.
 - d. Licensed day care center
 - e. Another adult entertainment or adult use.
3. **Definitions.** The definition of adult uses shall include the following types of establishments:
 - a. **Arcade, Adult.** Means any place where the public is permitted or invited in which coin-operated, slug operated or for any form of consideration,

electronically, electrically or mechanically controlled still or motion pictures, projectors, video or laser disc players or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of specified sexual activities or specified anatomical areas.

- b. **Bookstore, Adult; Adult Novelty Store or Adult Video Store.** Means a commercial establishment which, as one of its principal purposes, offers for sale, for any form of consideration, any one or more of the following: 1) books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video cassettes, slides or other visual representations that are characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas; or, 2) instruments, devices or paraphernalia that are designed for use in conjunction with specified sexual activities.
- c. **Cabaret, Adult.** A nightclub, bar, restaurant, or similar establishment which regularly features live performances that are characterized by the exposure of specified anatomical areas or specified sexual activities or photographs, films, motions pictures, video cassettes, slides, or other photographic reproductions in which a substantial portion of the total presentations time is devoted to the showing of material that is characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.
- d. **Motel, Adult.** Means a hotel, motel or other similar commercial establishment which offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmission, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas and has a sign visible for the public right-of-way which advertises the availability of this adult type of photographic reproductions; or 1) offers a sleeping room for rent for a period of time that is less than 10 hours; or 2) allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than 10 hours.
- a. **Motion Picture Theater, Adult.** Means an establishment where, for any form of consideration, films, motion pictures, slide, computer clips, virtual reality simulations, or similar photographic reproductions are generally shown, and in which a substantial portion of the presentation time is devoted to the showing of material that is characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.
- b. **Facility, Adult.** A theater, concert hall, auditorium, building, or similar establishment regularly characterized by (activities featuring) the exposure of specified anatomical areas or specified sexual activities.
- c. **Massage Parlor, Adult Use.** An establishment where, for any form of consideration, massage, alcohol rub, fomentation, electrical or magnetic treatment, or similar treatment or manipulation of the human body is administered, unless such treatment is by a medial practitioner, chiropractor, acupuncturist, physical therapist, or similar professional person licensed by the State of Kansas. This definition does not include an athletic club, school, gymnasium, reducing salon, spa, or similar establishment where massage or similar manipulation of the human body is offered as an incidental or accessory service.
- d. **Sexual Encounter Club or Establishment, Adult Use.** An establishment other than a hotel, motel, or similar establishment offering public

accommodations, which, for any form of consideration, provides a place where two or more persons may congregate, associated, or consort in connection with specified sexual activity or the exposure of specified anatomical areas. This definition does not include any establishment where a medical practitioner, psychologist, psychiatrist, or similar professional person licensed by the State of Kansas engages in sexual therapy.

- e. **Escort.** Means a person who, for consideration, agrees to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.
- f. **Escort Agency.** Means a person or business association who furnishes, offers to furnish or advertises to furnish escorts as one of its primary business purposes for a fee, tip or other consideration.
- g. **Nude Model Studio.** Means any place where a person appears semi-nude, in a state of nudity, or who displays specified anatomical areas and is provided to be observed, sketched, drawn, painted, sculptured, photographed or similarly depicted by other persons who pay money or for any form of consideration. A nude model studio shall not include a college, community college or university supported entirely or in part by public money, or in a structure or private studio that 1) has no sign visible from the exterior of the structure and no other advertising that indicates a nude or semi-nude person is available for viewing, 2) where, in order to participate in a class, a student must enroll at least three working days in advance of a class, and 3) where no more than one nude or semi-nude model is on the premises at any one time.
- h. **Specifications.**
 - i. **Specified Anatomical Areas.** As used herein, specified anatomical areas means and includes any of the following: 1) less than completely and opaquely covered human genitals, pubic region, anus, or female breasts below a point immediately above the top of the areolas; 2) human male genitals in a discernibly turgid state, even if completely and opaquely covered.
 - ii. **Specified Sexual Activities.** As used herein, specified sexual activities means and includes any of the following; 1) the fondling or other erotic touching of human genitals, pubic regions, buttocks, anus, or female breasts; 2) sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy; 3) masturbation, actual or simulated; or 4) excretory functions as part of or in conjunction with any of the activities set forth above in this section.

Section 16.04 **BED AND BREAKFAST**

1. The owner or owner's agent lives on the premises.
2. The facility is a part of the principal use.
3. Meals served shall be limited to residents and overnight customers/guests or shall be limited on a reservation only basis.
4. Adequate off-site parking is provided.

Section 16.05

CAMPGROUNDS AND RECREATIONAL VEHICLE PARKS

1. Campgrounds/RV Parks shall be utilized only for the accommodations of camping trailers, tents, recreational vehicles and other similar camping vehicles, and under no circumstances shall campgrounds be used for mobile or manufactured homes except by the owner, agent, or guardian.
2. Campgrounds shall not be less than two (2) acres in size located on a well-drained site that is properly graded to insure rapid discharge of storm water.
3. Campgrounds/RV Parks shall have an approved potable water supply and waste water treatment and disposal system.
4. Each site plan shall comply with the following minimum requirements.
 - a. Travel trailers shall be located on each space so as to maintain a setback of not less than 50 feet from any public street, highway right-of-way, or property line.
 - b. All camping spaces shall front on a private roadway that has an unobstructed access to a public street.
 - c. If the Planning Commission deems it necessary to screen adjoining property and provide privacy to the campground, a solid or semi-solid fence or wall six (6) feet high, but not more than eight (8) feet high, shall be placed between the campground and adjoining property. In lieu of a fence or wall, a landscape buffer may be used, provided that it is not less than twenty five (25) feet in width and shall be planted with coniferous and deciduous trees and shrubs so as to provide a dense screening barrier. The operator shall properly maintain the fence, wall or landscape buffer.

Section 16.06

COMMUNICATION TOWERS.

Radio or television towers, communication towers, microwave transmitting and/or receiving towers and/or stations, radio antennas, commercial satellite earth stations and similar appurtenances, subject to the following:

1. The applicant shall present satisfactory proof that the proposed location and use is reasonably necessary to provide transmission/reception coverage for the service area.
2. If the tower is proposed to be located on a site where night-time warning lights would intrude in an area used for a residential purpose, the applicant shall be required to document as to why the tower cannot be reasonably located in a remote area.
3. Towers and communications devices shall not be required to comply fully with the lot size and height regulations of the zoning district where they are located except as may be required by the conditions imposed upon the applicant.
4. Towers shall be set back from all adjacent property lines and buildings a distance equal to not less than its height plus fifty (50) feet, an exception may be allowed for towers located adjacent to buildings owned by the applicant. Towers located adjacent to streets and highways shall be setback a distance as required by the applicable zoning district.
5. Towers shall be located on sites that provide a setback distance at least equal to the height of the tower, except those owned and occupied by the owner/leasee.
6. The applicant must document that co-location on an existing tower or other structure within five (5) miles of the proposed location is not feasible or that efforts were made to locate on existing towers or other structures but such efforts were not successful. The

applicant or intended user of the tower shall place documentation of this requirement in the record.

7. All proposed communication towers 150 feet or less in height, shall be designed to accommodate at least one (1) additional PCS/Cellular or other similar platform in addition to the applicant's current need. All proposed communication towers in excess of 150 feet shall be designed to accommodate at least four (4) additional PCS/Cellular or other similar platforms in excess of the applicant's current needs.
8. Any application for a proposed tower in excess of 150 feet in height shall include documentation regarding the necessity for the proposed height from a Licensed Professional Engineer. Such documentation shall be in the form plans and specifications acceptable to the Planning Commission and sealed Professional Engineer. At the request of the Planning Commission additional evidence in the form of testimony may be required from said Engineer.
9. The tower and accessory equipment must meet all requirements of the Federal Aviation Administration. To the extent allowed by such requirements, any required lighting for such tower shall be red during time of darkness and white strobe lights shall not be allowed for nighttime lighting.
10. Relative to all tower or monopoles, the applicant shall give Harvey County, Kansas the option of co-locating, for governmental use, where such co-location will not interfere with other providers. There shall be no access fee or rent charge for said co-location.
 - a. Subject to the requirement of noninterference, the co-location may be on top or side mount at the option of Harvey County.
 - b. In addition to the co-location option noted above, all applicants shall provide Harvey County, Kansas space in the equipment shelter building. If an equipment shelter building is not built or space is not available in the building then the applicant shall provide ground space for a radio cabinet. There shall be no access or rental fee for said space.
11. Any modifications of an existing monopole or tower telecommunication structure may be permitted only upon approval by the Harvey County Regional Planning Commission or granting of a conditional use permit by the governing body, as the case may be. All applicants for any modification of such an existing monopole or tower shall provide co-location and equipment space for Harvey County as required in paragraph 10 above.
12. All applications for communication towers will require a third party review of the completed application. The responsibility to select the third party will be Harvey County's. All costs associated with the third party review will be the responsibility of the applicant.

Section 16.07

SCREENING AND BARRIER FENCES

Except as otherwise specifically provided in other codes and regulations, the following regulations shall apply to the construction of fences used for screening and barriers.

1. No fence shall be constructed which will constitute a traffic hazard.
2. No fence shall be constructed in such a manner or be of such design as to be hazardous or dangerous to persons or animals.
3. Fences separating residential uses shall not exceed six feet in height. Fences separating residential and non-residential land uses or between two non-residential land uses shall not exceed eight feet in height.

4. No fence except fences erected upon public or parochial school grounds or in public parks and in public playgrounds shall be constructed of a height greater than eight feet; provided, however, that the HCRPC may, authorize the construction of a fence higher than eight feet if the HCRPC finds that the additional height is reasonably necessary to promote safety, public convenience, and the preservation of property values and enjoyment.
5. Screening or barrier fences shall not be located in the front yard of any lot or tract used for a residential purpose unless such fence has a height of four (4) feet or less and is used for decorative purposes.

Section 16.08 **SALVAGE FACILITIES, SCRAP STORAGE YARD, DUMP, JUNKYARDS, OR AUTO WRECKING YARDS.**

1. The use shall be located on a tract of land at least 1,000 feet from a residential district.
2. The operation shall be conducted wholly within a building or within an area completely surrounded on all sides by a solid fence or wall. The fence, or wall shall be located no closer than fifteen (15) feet to any public right-of-way.
 - a. The fence or wall shall be installed in such a manner as to retain all scrap, junk, or other material within the yard.
 - b. The Planning Commission may require an installation and/or maintenance agreement between Harvey County and the applicant to insure that the fence is constructed from quality materials and maintained in good order through the life of the project.
3. No junk shall be loaded, unloaded, or otherwise placed, whether temporarily or permanently, outside the enclosed building, fence or wall, or within the public right-of-way.
4. Burning of paper, trash, junk or other waste materials shall not be permitted.
5. No junk, salvage, scrap or other materials shall be piled or stacked higher than the top of the required fence, or wall.

Section 16.09 **KENNELS, BREEDING AND BOARDING**

1. The minimum lot size for boarding/breeding/training kennels shall be five (5) acres, unless all animals are harbored indoors unless the kennel is used exclusively as animal boarding facility for cats and/or dogs in conjunction with a veterinary or animal grooming operation. With no discernable noise or odor at the property lines.
2. No kennel shall be located within 2,500 feet of the nearest residential use.
3. No kennel building or runs shall be located nearer than 75 feet to any property lines.
4. All kennel runs or open areas shall be screened around such areas or at the property lines to prevent distraction or excitement of the animals. Screening shall be provided by structure, solid or semi-solid fencing, landscape materials, or natural site features. Landscape materials must provide the desired screening effect within the first growing season following installation and throughout the year every year thereafter.

Section 16.10 **LIVESTOCK SALES FACILITIES**

1. No operation shall be located closer than 5,000 feet from an existing residence.

2. Manure shall be removed or disposed of in one of the following manners: spraying or spreading on land followed by disking or plowing; grinding or dehydrating in properly designated dehydrators; or stockpiling in a compost plant in an isolated area in such a manner as to not create a water pollution problem.
3. Insect and rodent control shall be performed through the use of chemical sprays and positioned in accordance with procedures and recommendations of a professional experienced in insect and rodent control.
4. All ground surfaces within pens shall be so graded and compacted to insure positive drainage.
5. Surface runoff shall be so controlled that no appreciable amount of soil or manure is carried into any roadway ditch or drainage area where it will deposit and form sludge banks where flies and mosquitoes can breed or create water pollution.

Section 16.11 **MINING & QUARRYING**

1. The applicant shall provide a time schedule for the extraction of rock or other materials and a topographic reclamation plan. Topsoil from the area of operation shall be saved and stored on site for reclamation of the area.
2. Reclamation of the area of operations is required as follows:
 - a. Final slopes shall not be graded more than 3:1 except in a quarry operation.
 - b. The areas shall be covered with topsoil and seeded to prevent erosion.
 - c. The area shall be cleared of all debris and equipment.
 - d. The Zoning Administrator shall inspect the site prior to the use, and after the use is completed to ensure the site is restored to a satisfactory condition.
 - e. The County Commission may require a performance bond in a form and amount determined to ensure reclamation.
3. No such use shall be allowed within a 100-year floodplain, unless approved by the State of Kansas.
4. Extraction sites shall be at least 500 feet from an existing residence or business unless written permission to be closer is obtained from the owner of said residence or business.
5. The applicant shall provide information on how the operation will address noise and dust control, stormwater drainage and retention, security and lighting.
6. The County Commission may require a maintenance agreement between the applicant and the county or township to maintain the roads that provide ingress and egress to the operation.

Section 16.12 **RESIDENTIAL DESIGNED MANUFACTURED HOME.**

1. The roof shall be pitched and covered with material that is customarily used on site-built dwellings, including but not limited to approved wood, asphalt composition shingles, or fiberglass, but excluding corrugated aluminum, corrugated fiberglass, or standing seam metal roof.
2. Exterior siding shall be of a material customarily used on site-built dwellings, such as wood, composition, simulated wood, clapboards, conventional vinyl or metal siding, brick, or similar materials, but excluding smooth, ribbed or corrugated metal or plastic panels.

3. All manufactured home running gear, tongues, axles, and wheels must be removed at the time of installation of the home.
4. The manufactured home shall be no less than twenty-two (22) feet in width.
5. A permanent and continuous masonry foundation shall be installed under the perimeter of the manufactured home, except for required ventilation and access, which may include a walk-out basement or emergency shelter. In the A-1, Agricultural district, homes shall be allowed on concrete piers with skirting.

Section 16.13

RECREATIONAL VEHICLES AND EQUIPMENT STORAGE

1. Recreational equipment such as boats, boat trailers, travel trailers, pick-up campers or coaches, camping buses or converted trucks, and tent trailers shall not be permanently stored in the front yard of any lot used or intended to be used for a residential purpose, except for A-1, Agriculture District.
2. No recreational vehicles or equipment shall be utilized for living, sleeping or housekeeping purposes when parked on a residential lot or in any location not approved for such use.