

ARTICLE 18.
ACCESSORY STRUCTURES, BUILDINGS AND USES

Section 1. PURPOSE:

The purpose and intent of the accessory use and accessory structure, building and use regulations is to:

- A. Maintain neighborhood integrity and preserve the existing character of the neighborhood by encouraging compatible land uses.
- B. Provide the residents of the County the opportunity to use their property to enhance or fulfill personal objectives as long as the use of the property is not incompatible with the land uses or character of the neighborhood.
- C. Establish criteria for operating home occupations in dwelling units within Rural, Planned Rural, Residential and Planned Residential Districts.
- D. Assure that public and private services such as streets, sewers, water and electrical systems are not burdened by accessory uses to the extent that the accessory usage exceeds that which is normally associated with the primary use of the property.

Section 2. GENERAL GUIDELINES FOR INTERPRETATION OF ACCESSORY STRUCTURES, BUILDINGS AND USES:

- A. An accessory structure, building or use shall be commonly associated with or generally necessary to the normal operations of the principal structure, building or use. To be "commonly associated" or "generally necessary" it is not necessary for an accessory to be connected with such principal more times than not, but only that the association of such accessory with such principal takes place with sufficient frequency or is so interrelated yet incidental and insubstantial that there is common acceptance of their relatedness.
- B. A structure or building shall be considered an integral part of the main structure or building when it has any major physical part or a wall in common with the main structure or building, or is under an extension of the main roof and designed as an integral part of the main structure or building.
- C. Structures, buildings or uses that would be accessory to main structures, buildings or uses under some situations may by themselves be main structures, buildings or uses in situations where they are not integral part of or incidental or insubstantial to a main use on a lot.

Section 3. ACCESSORY STRUCTURES, BUILDINGS AND USES PERMITTED:

Structures or buildings may be erected and used and land may be used for purposes which are clearly accessory to the principal or main structure, building or use permitted on the premises. Such accessory structures, buildings and uses shall be so constructed, maintained and conducted as to not produce noise, vibration, concussion, dust, dirt, smoke, odors, noxious gases, fly ash, heat, glare from artificial illumination or from reflection of natural light and shall be on the premises of the principal or main use, structure, or building except as may be specifically provided herein. Accessory uses, structures and buildings shall have an appearance consistent with the character of the neighborhood in which they are located and shall have an appearance consistent with the character of the main structure, building or use on the property. In the RUR. Rural District, new accessory structures or buildings may be built and used without a primary structure on the property. In all other zoning districts, if there is not a primary structure on the property, new accessory

structures or buildings shall not be built or used unless a Conditional Use Permit has been approved for the accessory structures or building(s) as provided in Article 23, Section 4 of these regulations.

Section 4. ELIGIBILITY FOR ACCESSORY STRUCTURES, BUILDINGS AND USES:

Determinations of whether a proposed structure, building or use would be an appropriate accessory shall be made by the Zoning Administrator. Such determinations may be appealed to the Board of Zoning Appeals as provided in Article 3, Section 5 of these regulations.

Section 5. HOME OCCUPATIONS:

Home occupations shall be permitted accessory uses in all Rural, Planned Rural, Residential, and Planned Residential Districts and shall be subject to the following:

A. Restrictions and Limitations:

1. The home occupation shall be carried on wholly within a main building or structure, or within a permitted accessory building or structure, provided that the primary use of the main building or structure is clearly the dwelling used by the person as such person's private residence.
2. No display or storage of equipment or material outside of a building or structure shall be permitted.
3. No alteration of the exterior of the principal residential building shall be made that removes the character of that building as a residence. There shall not be visible evidence of the business from the street or surrounding properties. The appearance of the building as a dwelling or residence shall not be altered to the extent it would appear to be a commercial or business operation. Alterations of building material, size, or color; light fixtures or intensity; parking area; or any other exterior change shall not cause the structure to lose its residential character nor shall it detract from the rural or residential character of the area.
4. Only one (1) non-illuminated ground or wall sign, not more than two square feet in sign area, may be used to identify the home occupation.
5. In zoning districts with a minimum lot size of less than 1 acre, employees or other assistants shall be limited to immediate members of the family residing on the premises.

In zoning districts with a minimum lot size of 1 acre or greater, employees or other assistants shall be limited to immediate members of the family residing on the premises and one (1) other person.

6. No equipment or machine may be used in such activities that is perceptible off the premises by reason of noise, smoke, dust, odor, heat, glare, radiation, electrical interference or vibration.
7. Parking generated by the conduct of a home occupation shall be provided off-street in an area other than the required front yard except that existing driveways may be used.
8. Vehicular or pedestrian traffic or parking demand shall not exceed twelve (12) two-way vehicular or pedestrian trips per day or parking of greater than four (4) customer vehicles at any one time during any 24-hour period.

9. Home occupations shall use no more than 20% of the total dwelling unit floor area. Those home occupations which require occasional meetings using more than 20% of the floor space may be permitted providing such meetings do not occur more frequently than once a month.
 10. The commercial exchange of tangible goods or items constituting a sale between the proprietor of a home occupation and members of the general public shall not be permitted on the premises of a home occupation except on an incidental, occasional and infrequent basis. Members of the general public shall not include persons in the home by prior individualized invitation.
 11. A home occupation may attract patrons, students, or any business related individuals only between the hours of 6 A.M. and 9 P.M. At any time during the day or evening, the parking standards of these regulations shall apply to the activity generated by the home occupation. A home occupation shall not generate more than twelve (12) business related visitations per day which shall constitute twelve (12) arrivals and twelve (12) departures by vehicle. Home occupation Day-Care Centers and Preschools shall not generate more than twelve (12) arrivals and twelve (12) departures per day by vehicle. These standards shall not be construed so as to prohibit occasional group gatherings, recitals, or demonstrations. However, such gatherings shall not occur more frequently than once per month and must be held within the visitation hours specified above in this paragraph.
 12. Any published advertising for the home occupation shall not include the residential street address unless the advertisement states that customers shall be received by appointment only.
- B. Particular Home Occupations Permitted: Permitted home occupations may include, but are not limited to, the following list of occupations, provided, however, that each home occupation is subject to the home occupation restrictions and limitations within these regulations:
1. Teaching or instruction provided not more than three (3) students are taught at any one time and not more than twelve (12) students per day.
 2. Preschools or day-care centers for not more than six (6) children or adults per day, when properly approved by the Johnson County Health Department or other such agencies as may be required by law.
 3. Professional office for accountants, architects, bookkeepers, engineers, lawyers, and similar professions.
 4. Offices for Realtors, insurance agents, brokers, sales representatives, and manufacturing representatives when no exchange of tangible goods is made on the premises.
 5. Home crafts and hobbies such as model making, rug weaving, and the like articles produced or constructed as a hobby activity shall not be sold on the premises except on an occasional and infrequent basis.
 6. Tailoring, alterations, and seamstresses.
 7. Beauty shops.
 8. Medical offices such as physicians, dentists, chiropractors' offices.
 9. Repair of items such as small appliances; personal electronic devices such as radios, televisions, stereos, personal computers or calculators provided that the use fully conforms with the performance requirements for home occupations.

C. Particular Home Occupations Prohibited:

1. Retail sales and services such as antiques, second-hand merchandise, groceries, and the like. However, this prohibition shall not apply to garage sales, tag sales, or similar occasional, temporary sales which may otherwise be permitted by County regulations such as the Code of Regulations for Special Events and Activities.
2. Equipment rental.
3. Automobile and other motor vehicle repair services.
4. Tourist homes including bed and breakfast facilities.

Section 6. ACCESSORY BUILDINGS AND STRUCTURES IN GENERAL:

Accessory structures shall comply with the following standards except as may be otherwise specifically provided for in these regulations:

A. Location:

1. Location in Required Setback: Accessory buildings and structures shall not be located in any Required Setback unless either:
 - a. Otherwise allowed by these regulations, or
 - b. Approved by a variance as provided in Article 3 of these regulations.
2. Location in Front Yard - Rural, Planned Rural, Residential and Planned Residential Districts:
 - a. For lots with a lot area of greater than three acres in the Rural or Planned Rural Districts, accessory buildings and structures shall be allowed in the Front Yard.
 - b. For lots meeting the following conditions, accessory buildings and structures shall not be located in the Front Yard, unless authorized by the approval of a Conditional Use Permit as provided in Article 23 of these regulations:
 - 1) Lots with a lot area of three acres or less in the Rural or Planned Rural District, or
 - 2) Lots in a Residential or Planned Residential District, regardless of the lot area.Such a Conditional Use Permit is subject to performance standards, as set forth in Article 23, Section 4(A)(1) of these regulations.
3. Location in Any Yard - Planned Employment and Planned Retail Business Districts: For lots in the Planned Employment and Planned Retail Business Districts, accessory buildings and structures may be allowed in the Front, Side, and Rear Yards as part of an approved Development Plan in accordance with Article 15 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. Construction should be of similar or compatible materials and have an appearance and scale (e.g., height and bulk) compatible with the business on the property and the

buildings or structures on nearby properties, so as to not cause substantial adverse visual or other negative impacts to surrounding properties; and

- b. Accessory building or structures may be required to be screened or landscaped (e.g., fencing, trees, shrubs, berm), if necessary.
- B. Accessory Building Size Limitations: Unless otherwise approved by Conditional Use Permit as provided for in Article 23 of these regulations, accessory buildings and structures shall comply with the following standards on all tracts smaller than 10 acres except in the Planned Retail Business Districts and the Planned Employment Center Districts:
1. Floor Area: The accessory building or structure ground floor area shall not exceed the following:
 - a. For any lots 1 acre or smaller, the total main floor area of all accessory buildings and structures shall not exceed nine hundred (900) square feet, provided that such buildings or structures shall not cover more than 30% of the rear yard.
 - b. For any lots larger than 1 acre, the maximum allowed total main floor area for all accessory buildings and structures shall increase from nine hundred (900) square feet by three hundred square feet for each full acre of lot size greater than one (1) acre and the maximum allowed total main floor area for accessory buildings and structures shall be determined on a pro-rata basis for fractions of a full acre.
 - c. For lots with a nominal lot area of 10 acres or larger, the total main floor area of accessory buildings and structures shall not be limited if the structures comply with all setback requirements of these regulations.
 - d. Notwithstanding items a, b, and c, of Section 6, (B)(1) above, tool sheds and pool houses shall be permitted as follows: Tool sheds smaller than 120 square feet and pool houses smaller than 200 square feet are permitted in the Rural, Residential and Planned Residential Districts.
 - e. Notwithstanding the cumulative “total main floor area” limitation for all accessory buildings and structures set forth within this section, an additional three hundred (300) square feet of floor area shall be allowed for open-walled accessory buildings and structures including, but not limited to: (1) unattached carports and picnic shelters, and (2) open-walled, lean-to-roofed areas such as equipment sheds, boat or recreational vehicle shelters.
 2. Height: The maximum height of accessory buildings or structures shall not exceed two (2) stories or thirty (30) feet in the RUR, PRUR, RLD, RN-2, PRLD, PRN-2, and PAE districts or two (2) stories or twenty-five (25) feet in the RN-1, 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, and PEC-4 districts unless specifically excepted from this height restriction by Article 17 of these regulations or unless the buildings or structures are accessory to an agricultural use.
- C. Number of accessory buildings or structures: For lots smaller than 10 acres, no property shall have more than 3 accessory buildings or structures unless approved by a Conditional Use Permit as provided in Article 23 of these regulations.
- D. Special Yard Setbacks in the PRU, PRB, PEC and PAE districts:

1. Accessory buildings or structures with a main floor area not larger than 200 square feet and detached private garages with a main floor area not larger than 750 square feet shall be set back at least:
 - a. 10 feet from rear and side property lines,
 - b. however, if the building or structure is taller than sixteen (16) feet, then the yard setbacks shall be at least equal to the building height, but the yard setbacks need not exceed the minimum yard setback requirements for the zoning district in which the accessory buildings or structures they are located unless otherwise required by these regulations. (See especially Sections 6 (E)(F) and (G) of this Article).
 2. Accessory buildings or structures with a main floor area larger than 200 square feet, and detached private garages with a main floor area larger than 750 square feet shall comply with the yard setback requirements for the zoning district in which they are located.
 3. The setbacks required for carports, open-walled lean-to roofed structures shall be the minimum setbacks of the zoning district or the height of the open-walled structure whichever is greater.
- E. Satellite Antennae: Ground-mounted satellite dish receiving or transmitting antennae are permitted. If the antennae dish is larger than forty-two (42) inches in any dimension, in any residential district, in the RUR, Rural District, or in the PRUR, Planned Rural District, on any lot smaller than 10 acres, or, if the antennae dish is larger than eighty-four (84) inches in any dimension in any planned retail business district, planned employment center district, or planned adult entertainment district, the following performance standards shall be met:
1. Ground-mounted satellite dish antenna shall not exceed 13 feet in height from the grade where it is mounted.
 2. Any satellite dish antenna shall be located within the rear yard or in any side yards which does not abut a street, and satellite dish antenna shall be located at least fifteen (15) feet inside the property lines.
 3. All cables and lines serving the satellite dish antenna shall be located underground.
 4. Satellite dish antennae shall only be ground mounted and the above provisions shall apply unless otherwise approved as to location or ground mounting by a Conditional Use Permit as provided in Article 23 of these regulations.
 5. Nothing contained herein shall relieve a person from the necessity of satisfying any and all governmental licenses or permits required for operation, if any.
- F. Solar Collectors: Solar collectors shall be permitted provided that the following performance standards are met:
1. Roof-mounted residential building solar collectors located on front or side building roofs visible from the public right-of-way shall not extend above the peak of the roof plane where it is mounted and no portion of any such solar collector shall extend more than 24 inches as measured perpendicularly to the roof at the point where it is mounted.
 2. Roof-mounted residential building solar collectors located on the rear or interior side building roofs shall not extend above the peak of the roof plane where it is mounted and no portion of

any such solar collector shall extend more than four feet as measured perpendicularly to the roof at the point where it is mounted.

3. Ground-mounted solar collectors shall not exceed 10 feet in total height and shall be located within the rear yard at least 12 feet inside the property lines.
 4. All utility service lines serving a ground-mounted solar system shall be located underground.
 5. Any system incorporated into a nonresidential building shall be integrated into the basic form and main body of the building. If roof mounted, all collector panels shall fit into the form of the roof; if the building's roof is sloped or if "rack" mounting is used on a flat roof, the mounting must be concealed from view at street level. Exposed rack supports and freestanding collectors apart from the main building shall not be permitted.
 6. Roof mounted solar energy systems mounted on "accessory or detached buildings" are allowed on detached garages or swimming pool equipment buildings. Detached "greenhouses" are also acceptable. All such energy systems mounted on accessory or detached buildings shall conform to the requirements outlined in paragraphs F(1) and F(2) above. No freestanding panels or panel racks shall be allowed.
 7. If an active solar or photovoltaic solar system is utilized, all components servicing the collector panels shall be concealed including mechanical piping, electrical conduits, and the like.
 8. All exposed metal, including the framework of active collector panels or exposed mullions and framework of passive systems shall be colored to visually blend into the surroundings.
- G. Additional Accessory Structures: Such additional accessory structures as private swimming pools, television and radio antennae used for domestic purposes, flagpoles, and play equipment are permitted under the following conditions:
1. Television and radio antennae are not permitted in the required front yards.
 2. No additional accessory structure allowed by this subsection shall exceed 60 feet in height unless approved by Conditional Use Permit as provided for in Article 23 of these regulations.
 3. Above ground structures of the type listed in this subsection shall be setback from property lines a distance at least equal to the height of the accessory structure.
 4. Swimming pools are not permitted in the required front yards or in required side yards. Swimming pools, hot tubs, whirlpools, etc. shall be setback from rear and side property lines at least 10 feet and shall be fenced as required by the applicable Johnson County Building Code, (See also Article 16, Sections 2 and 3 of these regulations).
- H. Fences: Allowed as provided in Article 16, Sections 2, 3, and 4 of these regulations.
- I. Small Wind Energy Conversion (SWEC) System Performance Standards:
- A Small Wind Energy Conversion (SWEC) system is a wind energy conversion system consisting of a wind turbine including blades or paddles, a tower, and associated control or conversion electronics, which has a rated capacity of not more than 20 kilowatts (kW) and which is intended to primarily reduce on-site consumption of electrical power from a utility company and only secondarily to provide electrical power to a utility company. There shall be no more than two (2) SWEC systems on a property. SWEC systems are not intended to serve multiple, off-site users.

SWEC systems shall be allowed in all zoning districts on any lot, tract, or parcel where a building is allowed; subject to the following performance standards. WEC systems not meeting the following performance standards may be allowed if a Conditional Use Permit is approved. See Article 23 of these regulations.

1. Accessory Use: A SWEC system may exist only as an accessory use, and it may not be constructed/installed on any property not zoned RUR, Rural District, until a primary structure exists on the property.
2. Setback: The base of the tower shall be set back from all property lines, public right-of-ways, and overhead public utility lines (excluding private service lines to buildings or structures on the property) a distance equal to the total height of the SWEC system when mounted on the ground, and, when mounted on a roof, a distance equal to the total height of the SWEC system measured from the ground nearest the tower. Guy wires used to support the SWEC system tower shall be set back at least ten (10) feet from all property lines and shall be on the same property as the tower.
3. SWEC System Tower Types: Ground- or roof-mounted towers may be monopole or guyed construction.
4. Maximum Total Height of SWEC Systems: The total height shall be measured from the ground nearest the tower base to the tip of the blade or paddle when fully extended. Ground-mounted SWEC systems shall not exceed eighty (80) feet in height. Roof-mounted SWEC systems shall be no more than twenty (20) feet above the highest point of the roof surface within the required setback distances.
5. Maximum Blade or Paddle Length: The maximum length of individual blades or paddles for ground-mounted horizontal axis SWEC systems shall be limited to twenty-five (25) feet. For ground-mounted horizontal axis, propeller-style SWEC systems, the blade length shall be measured from the tip of the blade to the center point of rotation of the hub on which the blade is mounted.
6. Minimum Paddle or Blade Clearance: For ground-mounted SWEC systems, there shall be a minimum paddle or blade tip-to-ground clearance of thirty (30) feet. For roof-mounted SWEC systems there shall be a minimum blade tip-to-roof clearance of two (2) feet.
7. Noise and Vibration: Noise produced by a SWEC system under normal operating conditions, as measured at five (5) feet above the ground level at any point along the property line in residentially zoned districts shall not exceed 60 dB(A) or 10 dB(A) above the ambient sound levels, whichever is higher, and shall not exceed 50 dB(C) if it is determined by an acoustical consultant and the use of a sound pressure level meter that a pure tone noise is generated by the SWEC system. Noise levels, however, may be exceeded during short-term events such as utility outages and/or severe wind storms. A SWEC system shall not cause vibrations through the ground that are perceptible beyond the property lines of the parcel upon which it is located. If the County Planning Department has reason to believe, based on preliminary measurements by staff using a sound pressure level meter, that an existing SWEC system may be operating in excess of the noise limits, the Department may require that a noise study be done. The owner of the land where the SWEC system is located may be required, at the owner's expense, to have prepared, by an independent acoustical consultant approved by the Planning Department, an acoustical study that shall demonstrate whether the SWEC system complies with the above noise standards on the basis of equivalent sound pressure levels.

Low-frequency noise criteria: SWEC systems with a horizontal-axis, propeller-style wind turbine shall be designed "in accordance with proven good engineering practices" as follows: a) At least three blades, b) Upwind rotor, c) No furling ("furling" means that the wind turbine is designed to limit its power output in high winds by changing the rotor's plane of rotation to a plane that is not perpendicular to the prevailing wind direction), d) Tapered and twisting blades, and e) Well-designed braking system.

8. Requirement for Engineered Drawings and Compliance with the County's Building Codes and the Electrical Code: Building permit applications for SWEC systems shall be accompanied by standard construction drawings of the SWEC system's structure and sealed and stamped engineering drawings of the tower, base, footings and/or foundation, and electrical wiring plans as provided by the manufacturer. Wet stamps shall not be required.

SWEC systems shall comply with the County's adopted Building Codes including but not limited to electrical, plus wind loads, footing and foundation requirements, and structural requirements for roof-mounted SWEC systems. No SWEC system shall be placed or constructed on the roof of any existing structure unless such structure is/was designed and constructed to structurally accommodate and support a roof-mounted wind energy system. Certification by a structural engineer shall be required for any roof-mounted system, as determined by the Building Official.

An accurately drawn-to-scale site plan is required for each Building Permit for a SWEC system. The site plan shall include all of the building permit application information required by the Building Codes Division and the following additional information as applicable to the subject site and installation:

- a) The location of any overhead utility lines, buildings, other structures, and trees taller than thirty (30) feet within the required setback area around the proposed tower; and
 - b) The proposed locations for electrical distribution cabling, transformers, transmission lines, and ancillary equipment, buildings, or structures.
9. Soil Studies: For standard soil conditions (not including gravel, sand, or low-strength soils), sealed and stamped engineered drawings prepared by the system manufacturer shall be acceptable for installations with a rated capacity of 20 Kw or less and will not require project-specific soils studies or an engineer's wet stamp.
 10. Utility Notification: No SWEC system shall be installed until evidence has been submitted to the County that the utility company that would or is serving the property has been notified of the customer's intent to install a customer-owned SWEC that is to be interconnected to the utility company. Off-grid systems shall be exempt from this requirement.
 11. Compliance with Federal Aviation Administration Regulations: SWEC systems shall not project above any of the imaginary airspace surfaces described in Subpart C (Obstruction Standards) of Federal Aviation Regulation Part 77, regarding Federal Aviation Administration guidance on objects affecting navigable airspace, and shall obtain any necessary approvals for installations close to airports.
 12. Abandonment or Discontinuance of Use: If a SWEC system is inoperable, whether mechanically, electrically, structurally or otherwise, for at least six (6) consecutive months, it shall be deemed to be abandoned. The County Planning Department shall contact the owner of the land on which the SWEC system is located stating that they must, within six months after the date the notice was mailed, either restore the SWEC system to operating condition, or remove it from the property to a site that can legally accept the same, for safety and

aesthetic reasons. If the owner(s) did not restore the SWEC system to operating condition within the six-month period, then the owner must have removed, at their sole expense, the SWEC system, including the tower and blades or paddles within said six-month period. If the SWEC system is not restored to operating condition or removed by the owner within the six-month period, then the County may consider the failure to restore or remove the SWEC system or both to be a violation of these regulations with the exception, however, that SWEC systems that are still operable but their use has been discontinued shall not be considered abandoned even if they have not been operated for at least six (6) consecutive months.

13. Signage: All signs on SWEC systems shall be limited to Incidental Identification Signs in accordance with Article 20 of these regulations, except that Instruction Signs shall be no larger than two (2) square feet. Signs for SWEC systems may provide the manufacturer's or installer's identification, appropriate warnings, and owner identification and may be located on the wind turbine, tower, building, or other structure associated with a SWEC system. These signs shall not be legible with the naked eye (sight unassisted by an instrument such as binocular or telescope), from any public road or adjacent property. No SWEC system shall have any sign, writing, flag, or picture that may be construed as advertising.
14. Lighting: No illumination of the turbine or tower of the SWEC system shall be allowed unless required by the FAA or other county requirement.
15. Access Safety and Security:
 - a.) Any climbing foot pegs or rungs below 12 feet of a freestanding tower shall be removed to prevent unauthorized climbing. Poles with climbing pegs or rungs below twelve (12) feet of a freestanding tower shall be fenced with a security fence six (6) feet tall.
 - b.) A clearly visible warning sign that states "Caution, High Voltage" must be placed on all pad-mounted transformers and all ground-mounted electrical and control equipment.
 - c.) Control equipment and emergency shut off devices shall be labeled and secured to prevent unauthorized access and use.
 - d.) All access doors to SWEC systems and their appurtenances (e.g. cabinets, junction boxes, etc.) shall be locked or fenced, as appropriate, to prevent unauthorized access.
16. Visual Impact and Color: SWEC systems shall be installed to minimize adverse visual impacts on surrounding neighbors and the community. The tower, turbine, paddles or blades, and related equipment shall be painted or otherwise finished in a non-reflective finish, in a color such as white, off-white, or gray (e.g. painted or galvanized steel). The objective is to have the equipment as inconspicuous as practicable. However, the paddles or blades may be black to facilitate deicing.
17. Separation: When two SWEC systems are proposed on one lot, tract or parcel, the systems shall be separated by a distance equal to the total height of the tallest SWEC system, including the extended blades or three (3) times the diameter of the larger rotor, whichever is the larger distance. When two or more roof-mounted SWEC systems are proposed, the SWEC systems shall be separated by a distance equal to the total height above the roof surface of the tallest roof-mounted SWEC system.
18. Reception Interference: Reserved.
19. Ice Throw: Ice thrown or shed from SWEC systems shall not cross the property lines of the site.

20. Over-speed controls: All SWEC systems shall be equipped with manual, either electronic or mechanical, and automatic over-speed controls to limit the paddle or blade rotations to speeds within the design limits of the SWEC system.
21. Floodplains: SWEC systems proposed to be installed in the Floodplain shall comply with the Article 22 of these regulations and not pose a threat or safety hazard due to flooding conditions.
22. Future Subdivision: The subdivision or lot split of any property upon which a SWEC system is located shall only be allowed if the SWEC system is a legally conforming use/structure, and if all setback, height and other requirements for SWEC systems, as such exist at the time of such future subdivision, remain in compliance.
23. Screening: To minimize visual clutter, ground-mounted transformers, electrical and other SWEC system equipment other than the tower, wind turbine, and paddles or blades shall be screened from view or otherwise constructed in harmony with the surrounding landscape or shall be screened with landscape plantings and landforms.
24. Birds: The towers and nacelles of SWEC systems shall not be constructed to allow perches for birds and especially not for avian predators, and in the event that occurs, the SWEC system may be required to be modified to prevent future occurrences. Any SWEC system that deviates from the conditions of this subsection may be allowed if a Conditional Use Permit is approved as provided in Article 23, Section 4(A) of these regulations and if the additional setback requirements of Article 17, Section 8, are met.

Section 7. ACCESSORY USES IN GENERAL:

- A. Animals: The keeping of common, ordinary household pets such as dogs, cats, fish, birds or hamsters in quantities less than those which would require a Conditional Use Permit for an animal boarding, breeding or raising facility shall be permitted as an accessory use in any district. Hogs, ruminants, or other similar such animals shall not be kept in the Residential or Planned Residential Districts or in any district on tracts with a nominal lot area smaller than ten (10) acres. However, the keeping of animals or poultry in Residential or Planned Residential Districts or in any district on tracts with a nominal lot area smaller than ten (10) acres as an accessory use shall be permitted in accordance with the following provisions:
 1. Horses, ponies, poultry or small domesticated animals other than those commonly kept as household pets may be kept and the total number of such animals or poultry allowed on any lot shall be determined by use of the following formulae:
 - a. One (1) horse or pony on lots no smaller than two (2) acres, and one (1) additional adult horse or pony for each additional one and one-half (1.5) acres of lot area. At least one (1) acre of open lot area shall be made available for each horse or pony kept on any property subject to this provision.
 - b. For lots less than ten (10) acres and not smaller than three (3) acres, fifteen (15) poultry or small domesticated animals other than those commonly kept as household pets for the first three (3) acres of lot area and five (5) additional poultry or small animals other than household pets for each additional one (1) acre of lot area.
 2. Barns, stables, or other such accessory structures sheltering permitted horses or poultry shall not be located in the required front yard nor less than 25 feet from side or rear lot lines.

3. Any 4-H Project is permitted in accordance with the provisions in Section 7 (A)(1) and (2) above and may be otherwise permitted by Conditional Use Permit as provided in Article 23 of these regulations for situations that would not comply with the above referenced formulae.
 4. The keeping of animal(s) in any manner other than as provided above shall not be allowed in the Residential or Planned Residential Districts or in any other district on tracts with a nominal lot area smaller than ten (10) acres unless a Conditional Use Permit is approved in accordance with the provisions of Article 23 of these regulations.
- B. Storage of Recreational Vehicles: In the Rural, Planned Rural, Residential, and all Planned Residential Districts, storage of recreational vehicles is permitted only in accordance with the following provisions:
1. Recreational vehicles shall not be stored except:
 - a. Within an enclosed building; or
 - b. In the rear yard behind the principal structure or in a side yard other than the street side yard of a corner lot behind the front setback line and at least ten (10) feet from all lot lines.
 2. Such storage shall be permitted for only those recreational vehicles owned by occupants of the premises.
 3. No travel trailer, pick-up camper, bus or truck converted into a camper, or motor home, whether owned by the occupant of the premises or owned by others, shall be utilized for living, sleeping or housekeeping purposes for longer than two (2) weeks total during any twelve (12) month period when parked in any location not zoned and approved for such use.
 4. No more than one (1) boat and boat trailer and no more than one (1) travel trailer, pick-up camper, bus or truck converted into a camper, or motor home may be stored outside a building.
 5. Temporary Parking in the Customary Driveway: A boat, a camping trailer, a pickup camper, a motor home or a recreational vehicle may be parked in the customary driveway for purposes of loading or unloading or trip preparation for a period of time not to exceed 48 hours total cumulatively within a thirty-day period.
- C. Vehicle and Equipment Storage:

Storage of Utility Trailers, Farm Equipment, or Vehicles Larger Than Light-Duty Trucks shall be governed by special requirements in certain zoning districts:

1. In the Rural District, RUR and, in the Planned Rural District, PRUR, on any lot larger than three (3) acres; in the Planned Research and Development Park District, PEC-1; in the Planned Research Development and Light Industrial District, PEC-3; and in the Planned Industrial District, PEC-4; such storage shall not have special requirements.
2. In all other districts, such storage shall be permitted only in accordance with the following special requirements:
 - a. Utility trailers or vehicles larger than light-duty trucks shall not be stored except:
 - 1). Within an enclosed building; or

- 2). In the rear yard behind a building or similar structure or behind the front setback line in a side yard other than the street side yard of a corner lot.
- b. No such utility trailer or vehicle larger than light-duty truck may be used for storage purposes unless a temporary permit is obtained as provided in Article 16, Section 6 for temporary storage use during construction on the lot.
 - c. Parking for utility trailer and light-duty truck (s) shall not be allowed except that not more than one (1) such vehicle may be parked at any residential property regardless of whether the vehicle is a business-owned vehicle, if it is typically used to commute to work sites at least four (4) times each week.
 - d. In all Residential or Planned Residential Districts no more than two (2) utility trailers may be stored provided that only one such trailer may have a box length greater than eight (8) feet in length or be a utility trailer not normally tow able behind a passenger car. Such trailers shall be either stored in an area not visible from nearby roads or residences or stored in an area screened from nearby roads or residences by a visually opaque fence or densely planted landscaping.
 - e. Farm equipment shall not be stored except:
 - 1). Within an enclosed building; or
 - 2). In the rear yard behind a building or similar structure or behind the front setback line in a side yard other than the street side yard of a corner lot.
 - f. Construction equipment shall not be stored on such lots except during permitted construction on the lot.
 - g. No vehicle with dimensions exceeding ten (10) feet in height or twenty (20) feet in length or eight (8) feet in width shall be stopped, left to stand or be parked for longer than 24 hours total within any 30-day period on any street or alley within any Residential District or Planned Residential District except when necessarily loading or unloading property or when in the performance of a service to or upon property in the block where the vehicle is parked.
 - h. Storage areas for utility trailers or vehicles larger than light-duty trucks are not required to be paved.
 - i. Except as allowed by this Article, no other equipment, material, trailer, motor vehicle shall be stored for more than 24 hours in any thirty-day period in any Residential District or Planned Residential District or residential area.
 - j. Exceptions from Section C (2)(a-i) above may be granted by the Board upon approval of plans indicating appropriate screening to be installed and appropriate setbacks to be used. Such plans shall meet established standards for protecting surrounding property prior to approval and shall clearly describe the proposal and provide information which the Board shall need in order to review, evaluate and make a decision about the application.

D. Accessory Dwelling Uses:

1. Purpose and Intent:

- a. The general purpose and intent of allowing Accessory Dwelling Units (ADU) in the unincorporated portion of the County is to:
 - 1) Allow life-style choices in single-family neighborhoods that respond to changing demographics and economic conditions;
 - 2) Respond to the needs of family members with health concerns or disabilities in a manner that is appropriate for people at a variety of stages in their life cycle by providing homeowners with a means of obtaining companionship, security, and services (e.g., on-site healthcare worker, housekeeper, childcare worker);
 - 3) Provide homeowners the opportunity to use their property to enhance or fulfill personal objectives by allowing more options for the use of accessory buildings (e.g., family game or media rooms with kitchens);
 - 4) Protect neighborhood stability, property values, and the single-family residential appearance of the neighborhood by ensuring that ADUs are well-designed and compatible with the neighborhood and constructed under the requirements of these Regulations; and
 - 5) Recognize that homeowners are likely to maintain an owner-occupied residence in a manner that upholds the single-family character of the property. Requiring owner occupancy is intended, therefore, to support and foster housing maintenance and neighborhood stability.

- b. ADUs not intended to replace Duplex and other Multi-family districts and dwellings:

Allowing ADUs is not intended to replace duplex and other multi-family zoning districts and dwellings. An ADU is different than a duplex in that typically the two units that make up a duplex are attached to each other, are relatively equal in size and height, and one unit usually does not dominate the other. In contrast, an ADU may or may not be attached and, unless otherwise allowed by this section, is subordinate in size, location, and appearance to the Principal Dwelling Unit that it accompanies. Additionally, both duplex units may be rented while an ADU or its accompanying Principal Dwelling Unit shall be owner-occupied, unless otherwise allowed by this section.

- c. Standards to regulate ADU appearance:

It is the intent of these regulations to establish performance and appearance standards that will allow ADUs to be placed in neighborhoods with a minimum impact on adjacent or nearby properties. Such performance and appearance standards are intended to ensure that, among other things, ADUs are unobtrusive and subordinate in size, location, and appearance to the Principal Dwelling Unit (unless otherwise allowed by this section) and are compatible with adjacent properties and the neighborhood.

The appearance standards are intended to support and promote the design of ADUs by replicating or complimenting identifiable and desirable neighborhood development patterns so that ADUs will blend rather than contrast with the existing neighborhood character. For example, oftentimes neighborhoods exhibit identifiable patterns such as uniform setbacks from the street or similar architectural detailing (i.e., roof pitch, building materials, or colors).

ADUs should be designed and located to compliment these patterns. Neighborhoods can exhibit patterns or lack of patterns with respect to numbers, sizes, placement, and design detailing of accessory buildings. For example, large parcels in rural areas tend to have more and larger accessory buildings (i.e. barns, stables, and metal utility buildings) that do not tend

to mirror the design of the associated residence but have a more utilitarian form (i.e., metal siding and lower roof pitches) and do not tend to have uniform setbacks from the street (but, rather, often tend to cluster next to the residence); whereas, smaller parcels in suburban areas tend to have fewer and smaller accessory buildings (i.e. detached garages and tool sheds) that tend to mirror the design of the associated residence (i.e., similar colors, exterior materials, and roof pitch) and are more apt to be in line with a uniform setback from the street. In turn, ADUs that are designed and located to replicate these patterns will be more likely to blend and be compatible with the surrounding neighborhood.

2. Review Process and Performance Standards:

Administratively Reviewed Certificate:

ADUs may be allowed in all Rural, Planned Rural, Residential, and Planned Residential zoning districts on any lot, tract, or parcel where a single-family dwelling is allowed; subject, however, to the below referenced performance standards that shall be administratively reviewed and approved by the Zoning Administrator in accordance with Article 5, Section 6 of these regulations for the purposes of obtaining required Zoning Permit and Accessory Dwelling Unit Certificate (ADU Certificate) approval.

Publicly Reviewed Permit:

ADUs not administratively approved by the Zoning Administrator may be allowed in all Rural, Planned Rural, Residential, and Planned Residential zoning districts on any lot, tract, or parcel where a single-family dwelling is allowed if an Accessory Dwelling Unit Permit (ADU Permit) is approved by the Board of County Commissioners in accordance with Section 7(D)(3) of this Article.

Performance Standards:

a. Owner Occupancy Required:

- 1) The Property Owner shall occupy either the Principal Dwelling Unit or the ADU as their domicile, unless otherwise allowed by this section. The Property Owner shall submit proof of such domicile to the Zoning Administrator as evidenced by voter registration or other such means accepted by the Zoning Administrator.
- 2) Notice: The Property Owner shall record against the subject property a written notice with the Johnson County Department of Records and Tax Administration. The notice shall alert future owners or lessors of the subject lot, tract, or parcel of the limitations of Section 7(D) of this Article and that the lawful existence of the ADU is predicated upon the occupancy of either the ADU or the Principal Dwelling Unit by the current Property Owner as their domicile.
- 3) Waiver: It is the intent of these Regulations that the site shall be occupied by the Property Owner upon establishment of an ADU. The Zoning Administrator may waive the owner-occupancy requirement of Section 7(D)(2)(a)(1) of this Article only after owner occupancy has been established on the site. Such waiver shall be only for Property Owner absences of less than one (1) year that meet one of the following qualifying conditions:
 - a) the Property Owner requires off-premises care or treatment;

- b) the subject property enters probate or has a decedent's estate matter requiring additional time to resolve; or
- c) the Property Owner experiences an unforeseen life change such as a change of employment or transfer.

The waiver is subject to renewal by the Zoning Administrator on an annual basis if the above qualifying conditions continue to be met. However, more than one annual renewal will be reviewed with greater scrutiny in order to uphold the intent of these regulations that ADUs shall be owner occupied.

- 4) Definitions: For purposes of this section: a) "Property Owner" means the deed holder and/or contract purchaser of the lot, tract, or parcel; b) "domicile" means the place where a person resides and has their true fixed permanent home, and to which place they have, whenever they are absent, the intention of returning, and from which they have no present intent of moving; and c) "owner occupancy" means that a Property Owner, as reflected in the deed records, makes his/her legal domicile at the site.
- b. Size of Lot, Tract or Parcel: An ADU shall be located on a lot, tract, or parcel no smaller than two (2) acres in size.
- c. Maximum Number: There shall be no more than one ADU per lot, tract, or parcel.
- d. Method of Establishment: An ADU may be established through one of the following methods, among others:
 - 1) converting floor area within the existing Main Building to an ADU;
 - 2) adding floor area to the existing Main Building that is dedicated to an ADU;
 - 3) constructing a new Main Building in which a portion of the floor area is dedicated to an ADU;
 - 4) converting all or a portion of the floor area within an existing accessory structure to an ADU;
 - 5) adding floor area to an existing accessory structure that is dedicated to an ADU; or
 - 6) constructing a new accessory structure in which all or a portion of the floor area is dedicated to an ADU.

Nothing herein shall be construed, however, to alleviate the necessity of first obtaining county approval of the ADU.

- e. Detached ADUs: The structure occupied by a Detached ADU shall be considered a type of accessory structure and shall be constructed in accordance with all County building codes and in accordance with all applicable requirements of these regulations, unless otherwise allowed or restricted by this section. An ADU, however, may occupy an existing accessory structure, in whole or in part, that has been determined by the Zoning Administrator to be a legal nonconforming structure with respect to building height, setbacks, or the like, as long as construction of the ADU does not extend or increase such nonconformity and as long as the ADU meets all other requirements of this section and these regulations.

- f. Attached ADUs: The structure occupied by an Attached ADU shall be considered to be part of the Main Building and shall be constructed in accordance with all County building codes and in accordance with all applicable requirements of these regulations, unless otherwise allowed or restricted by this section. An ADU, however, may occupy a Main Building that has been determined by the Zoning Administrator to be a legal nonconforming structure with respect to building height, setbacks, or the like, as long as construction of the ADU does not extend or increase such nonconformity and as long as the ADU meets all other requirements of this section and these regulations.
- g. Maximum Size:
 - 1) Attached ADUs: The Livable Area of an Attached ADU shall not exceed 50 percent of the Livable Area of the Principal Dwelling Unit prior to the establishment of the ADU.
 - 2) Detached ADUs:
 - a) The Livable Area of a Detached ADU shall not exceed 900 square feet.
 - b) Detached ADUs shall meet and count towards the size and number limitations regarding accessory buildings and structures as set forth in Article 18, Section 6 (B) and (C) of these regulations.
- h. Height and Yard Requirements:
 - 1) Detached ADUs: Detached ADUs are considered by these regulations to be a type of accessory building and, therefore, shall be constructed in accordance with the applicable accessory building height and yard requirements.
 - a) Detached ADUs shall not be located in the Front Yard.
 - b) Detached ADUs shall be located a distance no greater than 200 feet from the Main Building.
 - 2) Attached ADUs: Attached ADUs are considered by these regulations to be part of the Main Building, and, therefore, shall be constructed in accordance with the applicable main building height and yard requirements of the underlying zoning district.
- i. Supplementary and Accessory Uses and Accessory Structures:
 - 1) Supplementary and accessory uses and accessory structures are allowed on a lot, tract, or parcel containing an ADU if they are in accordance with the requirements of these regulations.
 - 2) It is the intent of these regulations that the addition of an ADU shall not significantly increase the levels and intensities of accessory and supplementary uses on the property and that the Property Owner shall control the distribution of these accessory and supplemental uses and structures to ensure that they are in compliance with the requirements of these regulations.
 - 3) The below referenced uses shall be allowed on a lot, tract, or parcel that also contains an ADU only in the following manner:
 - a) Home Occupations: Home occupations shall be allowed in the ADU or the Principal Dwelling Unit, or both, in accordance with Article 18, Section 5 of these regulations,

provided that all home occupations located on the property shall jointly meet, and shall not jointly exceed, all restrictions and limitations as set forth in Section 5 of this Article.

- b) Transient Uses: ADUs are intended for long-term use only. ADUs shall not be used as a Tourist Home including bed and breakfast purposes unless the ADU is authorized by the approval of an Accessory Dwelling Unit Permit (ADU Permit) in accordance with Section 7(D)(3) of this Article. Rental of an ADU for a period of less than 90 consecutive days is prohibited.

j. Parking and Driveway Requirements:

- 1) Parking Spaces: A minimum of one parking space shall be provided on the lot, tract, or parcel for an ADU. Principal Dwelling Unit parking shall be provided as required by the underlying zoning district.
- 2) Driveway Entrances: The ADU shall utilize existing driveway entrances unless a driveway entrance is approved by the County Engineer. To the greatest extent feasible, existing driveways and parking areas shall be utilized.
- 3) Fire Safety: All portions of a detached ADU shall be located a distance of no greater than 200 feet from a driveway that provides continuous access from the ADU to a driveway entrance approved by the County Engineer.

k. Appearance Standards:

- 1) The design of all ADUs shall uphold the single-family character of the property and the ADU shall be subordinate in size, location, and appearance to the Principal Dwelling Unit, unless otherwise allowed in this Section. The ADU shall be compatible in appearance with adjacent properties and the neighborhood.
- 2) When evaluating a proposed ADU, the appearance elements set forth in “a” thru “h”, below, should be considered by the Zoning Administrator, during review of an ADU Certificate application, to ensure that the ADU will be compatible with and have minimal, if any, impact on adjoining properties and the neighborhood’s character and to ensure that the other appearance standards set forth in Section 7(D)(2)(k)(1) of this Article have been met. The Appearance Elements shall be used as a non-exclusive indicator of whether the requirements of the Appearance Standards of this section have been satisfied. It is not intended that the Appearance Elements shall be utilized on a purely mathematical basis, by adding up the eight elements’ pros and cons. Rather, the significance of individual elements may vary when applied to different applications, and the Zoning Administrator shall conduct a weighing and balancing of the elements, and may assign more significant weight to some elements rather than to others, as deemed appropriate under the facts of each particular situation. Further, the Zoning Administrator may also utilize other factors deemed relevant, in addition to the Appearance Elements, to assist in such person’s review and determination.
- a) Height and Bulk: What is the predominate height of homes and accessory buildings in the neighborhood (e.g., one or two stories)? How does the height of the ADU compare with the height of the Principal Dwelling Unit? Does the ADU have a larger bulk or greater height than the Principal Dwelling Unit?

- b) Setbacks and Separation: Are homes set back the same distance from the street or are they staggered? Is there a typical or established house and lot pattern? Is there a typically wide or narrow space between homes?
- c) Exterior Color and Materials: Is there one material or color that is predominantly used for homes in the neighborhood? How does the materials and colors of the ADU compare with the Principal Dwelling Unit. Do they match or harmonize? Are they contrasting?
- d) Roofs: What do most of the roofs in the neighborhood look like (e.g., materials, color, or pitch)? How does the roof of the ADU compare with the roof of the Principal Dwelling Unit? What architectural details are found on the Principal Dwelling Unit (e.g., dormers, overhangs, and eaves)? Does the ADU have the same detailing?
- e) Entryways: Is the entryway to the ADU oriented away from the main street? Is the ADU entryway on a different façade or building plane than the Principal Dwelling Unit entryway? Is the ADU entryway smaller with less architectural detailing (e.g., porches, arches, columns, or overhangs) than the Principal Dwelling Unit entryway?
- f) Accessory Buildings: Where do most of the homes have their garages (e.g., attached, detached, or in the front, back, or side of the house)? Do lots typically have only one structure or several (e.g., sheds, garages, pools, or barns)? Are the accessory structures decorative or utilitarian (e.g., gazebo versus barn)? Does the design (e.g., color, exterior materials, and roof pitch) of the accessory structures typically match the design of the homes?
- g) Location and Orientation of Improvements: Where is the best ADU location to minimize impacts, including privacy on adjoining properties (e.g., views from windows)? Are exterior doorways and outdoor living areas such as porches or balconies oriented toward the interior of the property? Are exterior improvements (e.g., patios, pools, and gazebos) associated with the ADU located to minimize impacts and maintain the privacy of neighboring residences?
- h) Landscaping and Screening: Is landscaping, fencing, or a combination of both typically used to define lot lines and separate homes? Are front yards well-landscaped or is the most prominent feature a paved parking area? Is there heavy or light vegetation in the back yard areas (e.g., trees or hedges)? Is the ADU screened with fencing, landscaping, open space separation, or other buildings or structures in a manner that maintains the privacy of adjacent parcels and reduces visual impacts on neighboring parcels?

1. Variances and Existing Conditional Use Permits:

- 1) If the construction of the Main Building or ADU requires or required approval of a variance from the height, yard, or the like, requirements of these regulations, then an ADU shall only be allowed if authorized by the approval of an Accessory Dwelling Unit Permit (ADU Permit) as provided in Section 7(D)(3) of this Article.
- 2) If there is a conditional use permit (CUP) in effect that includes the subject property, then an ADU shall only be allowed if authorized by the approval of an Accessory Dwelling Unit Permit (ADU Permit) as provided in Section 7(D)(3) of this Article.

- m. Other Regulations and Codes: The ADU and all modifications to the Main Building shall be constructed in accordance with any and all applicable governmental codes and regulations, including but not limited to the County environmental, building, and fire codes.
- n. Enforcement and Revocation: Failure to comply with the requirements of Section 7(D)(2) of this Article shall be a violation of these regulations and shall be subject to enforcement per Article 6 of these regulations.

In addition to other remedies provided by these regulations, including those of Article 6 of these regulations, any ADU Certificate allowing an ADU 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:

- 1) The applicant has made material misrepresentations or false statements of fact in the application, or
- 2) The provisions or conditions of this Article or these regulations have been violated, or
- 3) 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 an ADU Certificate, 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.

3. Accessory Dwelling Unit Permit:

In the event an applicant desires to deviate from the performance standards of Section 7(D)(2) of this Article, or if an ADU Certificate application was submitted and denied pursuant to the procedure set forth in Article 5, Section 6 of these regulations, then an applicant may submit an application for an Accessory Dwelling Unit Permit (hereinafter “ADU Permit”).

a. Purpose of ADU Permit:

Section 7 of this Article provides criteria and procedures for ADUs which may be properly allowed upon consideration in each case of, among other things, the impact of the ADU upon neighboring land and the community.

ADUs may produce unique and special impacts because of their location, design, life span, size, traffic circulation, and similar such characteristics which impact on available or provided public facilities so that each such ADU not meeting the performance standards of Section 7(D)(2) of this Article must be considered and evaluated individually.

The Board shall decide whether each ADU proposed shall be granted an ADU Permit subject to the general and specific standards contained in this Section including the purposes and intents as set forth in Section 7(D)(1) of this Article and subject to such conditions and/or restrictions as are reasonable and appropriate to protect the character of the area and ensure the compatibility of the neighborhood in which it is located. The Board may deny requests which fail to satisfy standards and requirements and purposes and intents 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.

b. General Provisions:

ADU Permits may be approved only if found to be in the interest of the public health, safety, and general welfare of the community.

As a condition of approval of an ADU Permit, the Board may place such reasonable conditions and restrictions relative to the proposed ADU which address, among other things, the establishment, construction, and maintenance of the ADU as is deemed necessary for the protection of the public interest and to secure compliance with the standards and conditions and purposes and intents contained within this Article, other County regulations, and state and federal requirements.

Unless allowed by an approved ADU Certificate per Article 5, Section 6 of these regulations, no ADU shall be constructed or put to use until and unless an ADU Permit application has been submitted and an ADU Permit has been formally approved by the Board as required by Article 4 of these regulations.

ADUs allowed by an ADU Permit must abide by all of the conditions of the approval of such ADU Permit. Failure to comply with the requirements of the ADU Permit shall cause the ADU Permit to come under the revocation provisions of Section 7(D)(3)(f) of this Article.

c. Application Requirements:

- 1) 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 an ADU Permit application. This includes Section 3(J) of Article 15 which requires that “preliminary sketches of building elevations depicting the general style, size and exterior construction materials of the buildings proposed in sufficient detail to exhibit the relative compatibility of the proposed development with the character of the neighborhood.”

The development plan must indicate how the proposed use would satisfy the screening, setback, and other such ADU performance and development standards and zoning regulations as specified for the particular ADU.

- 2) Written Narrative Description: A written narrative description of the proposed ADU 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 ADU would satisfy the performance and development standards, purposes and intents, and zoning regulations as applies to the particular ADU. The narrative description shall also address how the proposed ADU shall meet and comply with the Issuance of ADU Permits in Section 7(D)(3)(e) of this Article. The narrative description shall also describe the reasons which appear to make the site in question appropriate for the proposed ADU, 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.
- 3) Application Requirements and Processing Procedures: ADU 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 an ADU Permit. Arrangements for this conference shall be made by contacting the Planning Office.

d. General Development and Performance Standards:

- 1) An ADU Permit may be approved for an unlimited term of years, but shall be subject to termination and revocation for failure to comply with the terms and provisions of the ADU Permit, and the requirements of these regulations, as more fully set forth herein.
- 2) The owner-occupancy requirements of Section 7(D)(2)(a) of this Article shall be met, and any or all of the other performance standards within Section 7(D)(2) of this Article may be required as conditions of approval of the ADU Permit.
- 3) In General: The ADU Permit shall operate in accordance with a) the appropriate performance standards contained in Subsections 7(D)(3)(d)(1) and (2) and Subsections 7(D)(3)(e)(2) and (3) of 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 ADU 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 ADU Permit to govern the ADU.
- 4) Lot Area, Lot Dimension and Yard Requirements: The ADU shall abide by the lot area, lot dimension, yard requirements, and the like of the particular zoning district in which the ADU 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 ADU as needed to assure compatibility with the surrounding properties.

Rule Exception: The applicant may request a Rule Exception from the lot area, lot dimension, yard requirements, and the like of a particular zoning district in which the ADU is located. A Rule Exception may be requested in writing on forms provided by the Planning Office or by letter if all information required on such forms is provided within the letter. Requests for Rule Exceptions may be submitted with the ADU Permit application, or may be submitted during the course of consideration of the application. Requests for Rule Exceptions shall be considered by the Zoning Board and a report on the Zoning Board's recommendations or failure to recommend thereon, shall be provided to the Board of County Commissioners, who shall make the final decision thereon.

Rule Exceptions shall not be recommended for approval by the Zoning Board nor approved by the Board of County Commissioners unless they find that such approval shall be compatible with the surrounding neighborhood and shall not be contrary to the public interest or unnecessarily burden the County, and shall not annul the intent and purpose of these regulations.

e. Issuance of ADU Permits

- 1) The proposed ADU Permit shall be reviewed using established land use criteria such as, but not limited to, that suggested by the Kansas Supreme Court in the case of *Golden v. Overland Park, Kansas*.
- 2) The Zoning Board shall not recommend that an ADU Permit be granted unless, based upon the evidence presented to it in each specific case, it has considered the following:

- a) That the granting of any ADU 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.
- b) That the granting of the PERMIT will not:
 - i) Impair an adequate supply of light and air to adjacent property;
 - ii) Unduly increase hazards from fire or other dangers;
 - iii) Unduly increase traffic on streets or highways beyond their capacity;
 - iv) Unduly increase the potential for flood damages to adjacent property or lead to additional public expense for flood protection, rescue or relief;
 - v) 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
 - vi) Pollute the air, land or water.
- c) That the ADU:
 - i) 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.
 - ii) Will be compatible with and not be hazardous or unduly disturbing to existing or planned future neighboring uses and zoning.
 - iii) 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 needed for each ADU.

Each ADU shall be considered with respect to the infrastructure available and whether additional or improved infrastructure would be needed for the proposed ADU. If additional or improved infrastructure would be needed, an ADU Permit may be approved if the applicant shall comply with Article 31, Section 2, (C) (1) and (2).
 - iv) Will not create excessive additional requirements at public cost for public facilities and services.
 - v) 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.
 - vi) Will not result in the destruction, loss, or damage of a natural, scenic, aesthetic or historic feature of major importance.
 - vii) 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.

f. Revocation of ADU Permits:

In addition to other remedies provided by these regulations, including those of Article 6 of these regulations, any ADU Permit allowing an ADU 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:

- 1) The applicant has made material misrepresentations or false statements of fact in the application, or
- 2) The provisions or conditions of this Article or these regulations have been violated, or
- 3) 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 an ADU 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.

E. Cargo Containers as Permanent Storage Units:

1. Cargo Containers for Storage Uses in Designated Zoning Districts.

- a. In any district on property 10 acres or greater the number of cargo containers, hauling trailers or similar enclosed boxes (hereinafter “Containers”) used for personal or agricultural uses shall not be regulated, except for compliance with the Appearance and Setback/Separation requirements set forth below in subsection (b)(i) and (b)(vi). Containers shall not be rented or used for business use. Containers that are empty are not allowed.
- b. In the Rural, Residential, Planned Rural or Planned Residential districts, on tracts or lots greater than 3 acres but less than 10 acres, cargo containers, hauling trailers or similar enclosed boxes (hereinafter “Containers”) are allowed as an accessory use on a permanent basis for personal storage subject to the accessory building size, use, number, height, and location requirements set forth in Article 18, Section 6, (B) & (C) except as modified herein. Containers shall not be rented or used for business use. Containers that are empty are not allowed. In addition, all permanent Containers shall be subject to the following provisions:
 - i. Appearance: All Containers shall have the wheels and chassis removed. All signage on the Container shall be removed and the Container shall be painted an earth tone color. Containers shall not be stacked on top of each other and shall be safe, structurally sound, stable, in good repair, and in compliance with any other applicable County requirements, including building codes e.g., tie downs, foundations, etc. Containers shall be continually maintained in accordance with these regulations. Any Container that is not maintained in accordance with these regulations, as determined by the Zoning Administrator, shall immediately be brought into compliance or removed by the property owner to a location that can legally accept it. Any Container that becomes unsound, unstable or otherwise dangerous, as determined by the Building Official, shall be immediately repaired or removed by the property owner to a location that can legally accept it. Adequate means for fire and emergency vehicles access to Containers shall be provided.
 - ii. Access: Containers shall not be stored in a manner that impedes access to public right-of-ways, public utility or drainage easements, adjacent structures, and buildings.

- iii. Personal Materials Stored: Materials stored inside the Container shall be limited to normal personal household items. No agricultural, commercial or business products, equipment or materials shall be stored in a Container.
 - iv. Pad Site: Containers shall be placed on a stable surface or foundation.
 - v. Screening and Landscaping: Visual screening shall be placed adjacent to the Container(s) to obscure, shield or mitigate the view of the Container from adjacent property or street. Alternatively, the perimeter of the tract or lot on which Container(s) are placed shall be screened. Screening shall be at least seventy-five percent visually solid, shall consist of dense landscaping, landforms, fences or walls with a height of at least 8 ft. All screening shall be continually maintained.
 - vi. Setbacks and Separation distance:
 - 1. Containers shall be setback a minimum of 100 ft. from all property lines.
 - 2. In addition, if there is an existing house or residence on adjacent property, Containers shall be separated by a distance of at least 300 ft. feet from the existing house or residence. Therefore, this does not apply to adjacent houses that are established after the Container use.
2. Cargo Containers for Storage Uses in the PRB and PEC Districts. In the PRB and PEC zoning districts, cargo containers, hauling trailers or similar enclosed boxes (hereinafter “Containers) for storage uses are allowed as an accessory use subject to the requirements of the zoning district in which they are located and subject to the accessory building size, number and location requirements set forth in Article 18, Section 6, (B) & (C) except as modified herein. Containers not used for storage are not allowed under the provisions of this Section. All Containers shall have the wheels and chassis removed. All signage on the Container shall be removed and the Container shall be painted an earth tone color. Containers shall not be stacked on top of each other and shall be safe, structurally sound, stable, in good repair, and in compliance with any other applicable County requirements, including building codes e.g., tie downs, foundations, etc. Containers shall be continually maintained in accordance with these regulations. Any Container that is not maintained in accordance with these regulations, as determined by the Zoning Administrator, shall immediately be brought into compliance or removed by the property owner to a location that can legally accept it. Any Container that becomes unsound, unstable or otherwise dangerous, as determined by the Building Official, shall be immediately repaired or removed by the property owner to a location that can legally accept it. Adequate means for fire and emergency vehicles access to Containers shall be provided. In addition, all permanent Containers shall be subject to the following provisions:
- a. Access: Containers shall not be stored in a manner that impedes access to public right-of-ways, public utility or drainage easements, adjacent structures, and buildings.
 - b. Materials Stored: Materials stored inside the Container shall be limited to items normally associated with the PRB or PEC use of the property.
 - c. Minimum Lot Size: Property on which the Container(s) are placed shall have a minimum lot size of 10,000 sq. ft.
 - d. Pad Site: Containers shall be placed on a stable surface or foundation.
 - e. Screening and Landscaping: Visual screening shall be placed adjacent to the Container(s) to obscure, shield or mitigate the view of the Container from adjacent property or street. Alternatively, the perimeter of the tract or lot on which Container(s) are placed shall be screened. Screening shall be at least seventy-five percent visually solid, shall consist of dense landscaping, landforms, fences or walls with a height of at least 8 ft. All screening shall be continually maintained.

- f. Setbacks and Separation distance:
 - i. Containers shall be setback 50 ft. from all property line.
 - ii. Containers may be placed in side-by-side grouping not to exceed twenty (20) Containers in width. End-to-end grouping shall not exceed two (2) Containers in length.
 - iii. No stacking of Containers shall be allowed.
 - g. Development Plan. In addition to the requirements in this Section, Containers shall comply with Article 15, Development Plan Procedures prior to placement of a Container(s) on a tract or lot zoned PRB or PEC District.
3. Conditional Use Permit. Containers that are: a) larger than allowed, b) in greater quantities than allowed, c) do not meet the appearance and performance standards, or d) do not meet the minimum setback and separation requirements as provided in (E)(1) and (E)(2) above, may be approved by conditional use permit per Article 23, Section 4, (A), (1), plus 3 (a)-(d) above; or Article 23, Section 4, (I) and (J); and in all cases, Article 23, Section 6, (C).

Section 8. RURAL DISTRICT:

A. Permitted Accessory Uses:

- 1. On properties being used for agricultural purposes, the storage of equipment and machinery as necessary to raise crops and livestock, to conduct farming activities, and to maintain the property.
- 2. Sale of products raised on the premises, fruit stands, orchard sales, and the like.
- 3. Accessory buildings such as barns, agricultural equipment sheds, other exclusively agricultural structures, roadside stands, and the like provided that such structures are set back at least 50 feet from any street right-of-way or the Official Street Line.
- 4. Private Stables which are subject to the requirements of Section 7 (A) of this Article.

B. Home Occupations: as provided in Section 5 of this Article.

C. Accessory Buildings and Structures: as provided in Section 6 of this Article and on tracts larger than 20 acres, one secondary farm residence for farmhands if it is placed on the property in a location and manner that would enable a legal, separate lot or tract to be created for the secondary farm residence in the future.

D. Accessory Uses in General: as provided in Section 7 of this Article.

Section 9. RESIDENTIAL, PLANNED RESIDENTIAL DISTRICTS, AND PLANNED RURAL DISTRICT:

A. Permitted Accessory Uses: Home Occupations as provided in Section 5 of this Article and guesthouses.

B. Accessory Buildings and Structures in General: as provided in Section 6 of this Article.

C. Accessory Uses in General: as provided in Section 7 of this Article.

D. On lots not smaller than one (1) acre, Limited Garden Uses, and on lots not smaller than two (2) acres the keeping of animals as provided in Section 7 of this Article.

Section 10. PLANNED RETAIL BUSINESS DISTRICTS AND PLANNED EMPLOYMENT CENTER DISTRICTS:

Subject to development plan approval as required by Articles 11 and 15 of these regulations, accessory uses, buildings, or structures such as the following shall be allowed:

- A. Permitted Accessory Uses: Cooling towers, employee recreation facilities and functions, food service and vending machines inside the building, flagpoles, gatehouse, loading areas, low-level exterior lighting, private garage for motor vehicles, security and screening fencing, signs as permitted by these regulations, storage facilities, radio or television or microwave antennae not exceeding 60 feet in height and setback from the property line a distance at least equal to the height of the structure, private fire stations or private facilities for utility services required by the development, temporary or efficiency living quarters for persons providing security or management services to other facilities on the same site, and other similar uses. Except in PEC-1, Day-Care Centers and Preschools.
- B. In PEC-4 district, retail sales areas if they do not exceed ten percent (10%) of the gross floor area of the main use or five thousand (5,000) square feet, whichever is less.
- C. Accessory Buildings and Structures: as provided in Section 6 of this Article.
- D. Accessory Uses in General: as provided in Section 7 (C) of this Article.