

BOARD OF COUNTY COMMISSIONERS OF DOUGLAS COUNTY, KANSAS

WEDNESDAY, JULY 7, 2010

4:00 p.m.

CONSENT AGENDA

- (1)(a) Consider approval of Commission Orders;

REGULAR AGENDA

- (2) Discussion of policy on assisting townships with road maintenance or construction work (Keith Browning)
- (3) Consider awarding contract for asphalt overlay Project No. 2010-6 (Keith Browning)
- (4) Receive and consider approval of Implementation Agreement concerning management of US-56 corridor (Keith Browning)
- (5) Macro-view of Douglas County floodplain and related issues (Linda Finger)-No backup
- (6) Executive Session for the purpose of consultation with the County Counselor to discuss acquisition of property.
- (7) Other Business
 - (a) Consider approval of Accounts Payable (if necessary)
 - (b) Appointments
 - (c) Miscellaneous
 - (d) Public Comment

RECESS UNTIL 6:35 P.M.

6:35 p.m.

- (8) Temporary Business Use Permit – Property Location 1014 N 1800 RD, Lawrence, USA Cycling Cyclocross Events (Keith Dabney)
- (9) Consider approval of Text Amendments (TA-4-7-10) to the Zoning Regulations, Chapter 12, Article 28 of the Code of the County of Douglas, Kansas to reference 2010 effective dates for new Floodplain Overlay District Maps and related regulation changes, And Adopt a resolution to the Floodplain management regulations in the zoning regulations codified at Chapter 12, in the Douglas County Code. (PC Item 10; approved 10-0 on 6/23/10) (Keith Dabney/Amy Brown)
- (10) Adjourn

MONDAY, JULY 12, 2010

8:00 a.m. – 12:00 p.m. – County Commission Budget Work Session

TUESDAY, JULY 13, 2010

8:00 a.m. – 12:00 p.m. – County Commission Budget Work Session

WEDNESDAY, JULY 14, 2010

4:00 p.m. – Commission Meeting

6:35 p.m.

-Consider approval to revised Text Amendment **TA-10-22-09** to the Zoning Regulations for the Unincorporated Territory of Douglas County to create a new Business District to support rural conference, recreational, and tourism sites. *Initiated by the Board of County Commissioners on 6/24/09. Recommended for approval by the Planning Commission on 1/27/10.* (Mary Miller is the Planner)

– Discussion of noxious weed control, the problem of drift spray on specialty crops (Nancy Thellman)

MONDAY, JULY 19, 2010

8:00 a.m. – 12:00 p.m. – County Commission Budget Work Session

TUESDAY, JULY 20, 2010

8:00 a.m. – 12:00 p.m. – County Commission Budget Work Session

WEDNESDAY, JULY 21, 2010 (Cancelled)

-No Commission Meeting

WEDNESDAY, JULY 28, 2010

-FY2011 Financial Approval for Community Corrections.

WEDNESDAY, OCTOBER 13, 2010

-Discussion on SmartStar program from Westar Energy (Eileen Horn)

Note: The Douglas County Commission meets regularly on Wednesdays at 4:00 P.M. for administrative items and 6:35 P.M. for public items at the Douglas County Courthouse. Specific regular meeting dates that are not listed above have not been cancelled unless specifically noted on this schedule.

MEMORANDUM

To : Board of County Commissioners

From : Keith A. Browning, P.E., Director of Public Works/County Engineer

Date : June 30, 2010

Re : Policy on assisting townships with road maintenance or construction work

As you are aware, Douglas County utilizes a county-township roadway system. Local, rural roads are typically maintained by the townships. By statute, maintenance responsibility for bridges and larger culverts (required opening > 25 square feet) falls to the county, even on township-maintained roads.

Not infrequently, a township will require our assistance to accomplish work for which they are responsible. Often, townships need our assistance to remove and replace township-sized culverts. Townships do not have the large excavating equipment needed to remove and replace larger culverts under significant fill. Old concrete culverts can also be difficult for townships to remove.

The previous commission instituted a policy whereby we charge townships the full cost of providing assistance. Full cost includes all personnel costs (including fringe benefits), equipment costs, and material costs. Before this policy, we provided assistance upon request, and, unless there were unusually high costs or significant time involved, we provided this service at no charge.

Action Required: Provide policy direction on assisting townships with road maintenance or construction work.

MEMORANDUM

To : Board of County Commissioners

From : Keith A. Browning, P.E., Director of Public Works/County Engineer

Date : July 2, 2010

Re : Consider awarding contract for asphalt overlay Project No. 2010-6

Bids were opened July 1 for asphalt overlay work on the following county route segments:

- Route 458, E 1500 Road to E 1600 Road, 2" mill and 2" asphalt overlay
- Route 1055, N 1000 Road to N700/E1700 (excluding the Gun Club project area), 2" mill and 2" asphalt overlay
- Route 460, E 1700 Road to E 1900 Road, 2" asphalt overlay
- Route 1029, Route 442 to US-40, 2" asphalt overlay
- N 1300 Road (31st Street), E1350 (Lawrence City Limits) to E 1400 Road (Louisiana Street), 2" mill and 2"-3" asphalt overlay

Two contractors submitted bids, as follows:

<u>Bidder</u>	<u>Total Bid</u>
Bettis Asphalt	\$1,104,618.00
RD Johnson	\$1,199,999.90
Engineer's Estimate	\$1,310,819.15

Funding for this project is available in Road & Bridge Fund 201, Overlay (\$344,520) and Sealing (approximately \$180,000) line items, and the CIP (approximately \$400,000 from Annual Contract Pavement Maintenance Projects). The remaining cost (approximately \$180,098) will be paid from the Special Highway fund.

Due to uncertainties in the amount of patching that will be required, we request authorization to approve change orders totaling up to 8% of the total contract amount. In addition, the contract stipulates the bid prices for asphalt hot mix are based on KDOT's June 2010 Asphalt Material Index (AMI). The hot mix prices may increase or decrease based on the AMI at the time the material is laid.

This department recommends the BOCC accept the low bid from Bettis Asphalt.

Action Required: Accept the low bid of \$1,104,618.00 from Bettis Asphalt for Project No. 2010-6, overlay work on portions of Route 458, Route 1055, Route 460, Route 1029, and 31st Street, and authorize the Public Works Director to approve change orders up to 8% of the contract amount, excluding asphalt hot mix price increases due to increases in KDOT's Asphalt Material Index.

	PROJECT NO. 2010-6 - Bid No. 10-F-0015			ENGINEER'S ESTIMATE		BETTIS ASPHALT & CONST., INC.		R D JOHNSON EXCAVATING CO			
SPEC. NO.	BIDDING ITEMS - Rte. 458 and Rte. 1055 Segment	APPROX. QTYS.	UNIT	UNIT PRICE	EXT.	UNIT PRICE	EXT.	UNIT PRICE	EXT.	UNIT PRICE	EXT.
801	Mobilization	1	L.S.	\$ 7,000.00	\$ 7,000.00	\$ 1,210.00	\$ 1,210.00	\$ 8,326.00	\$ 8,326.00		\$ -
Sp. Prov./805	Traffic Control	1	L.S.	\$ 6,500.00	\$ 6,500.00	\$ 10,605.00	\$ 10,605.00	\$ 5,550.00	\$ 5,550.00		\$ -
611/Sp. Prov.	HMA - Commercial Grade (Class A) (Surface)	7013	Tons	\$ 55.00	\$ 385,715.00	\$ 46.29	\$ 324,631.77	\$ 50.00	\$ 350,650.00		\$ -
612/Plans	Milling (2" Nominal)	58876	S.Y.	\$ 1.25	\$ 73,595.00	\$ 1.00	\$ 58,876.00	\$ 1.40	\$ 82,426.40		\$ -
833/611 Sp. Prov.	HMA - Commercial Grade (Class A) (Patch)	250	Tons	\$ 110.00	\$ 27,500.00	\$ 102.00	\$ 25,500.00	\$ 120.00	\$ 30,000.00		\$ -
Sp. Prov./805	Flagger (Set)	1	Hour	\$ 40.00	\$ 40.00	\$ 40.00	\$ 40.00	\$ 40.00	\$ 40.00	\$ 40.00	\$ 40.00
804/Sp. Prov.	Maintenance & Restoration of Haul Roads (Set)	1	L.S.	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00
Sp. Prov.	Monument Box	8	Ea.	\$ 600.00	\$ 4,800.00	\$ 630.00	\$ 5,040.00	\$ 600.00	\$ 4,800.00		\$ -
	TOTAL BID THIS LOCATION				\$ 506,150.00			\$ 426,902.77			\$ 482,792.40
	BIDDING ITEMS - 31st Street Segment	APPROX. QTYS.	UNIT	UNIT PRICE	EXT.	UNIT PRICE	EXT.	UNIT PRICE	EXT.	UNIT PRICE	EXT.
801	Mobilization	1	L.S.	\$ 4,500.00	\$ 4,500.00	\$ 525.00	\$ 525.00	\$ 7,950.00	\$ 7,950.00		\$ -
Sp. Prov./805	Traffic Control	1	L.S.	\$ 15,000.00	\$ 15,000.00	\$ 5,775.00	\$ 5,775.00	\$ 13,725.00	\$ 13,725.00		\$ -
612/Plans	Profile Milling	14267	S.Y.	\$ 2.50	\$ 35,667.50	\$ 1.00	\$ 14,267.00	\$ 1.40	\$ 19,973.80		\$ -
611/Sp. Prov.	HMA - Commercial Grade (Class A)(Surface)	2524	Tons	\$ 55.00	\$ 138,820.00	\$ 46.41	\$ 117,138.84	\$ 50.00	\$ 126,200.00		\$ -
833/611 Sp. Prov.	HMA - Commercial Grade (Class A)(Patch)	1410	Tons	\$ 110.00	\$ 155,100.00	\$ 75.05	\$ 105,820.50	\$ 76.00	\$ 107,160.00		\$ -
Sp. Prov./805	Flagger (Set)	1	Hour	\$ 40.00	\$ 40.00	\$ 40.00	\$ 40.00	\$ 40.00	\$ 40.00	\$ 40.00	\$ 40.00
806	Pavement Marking (Intersection Gr.)(WH)(24")	24	L.F.	\$ 12.00	\$ 288.00	\$ 11.00	\$ 264.00	\$ 11.00	\$ 264.00		\$ -
806	Pavement Marking (Intersection Gr.)(WH)(Left Arrow)	3	Ea.	\$ 250.00	\$ 750.00	\$ 268.00	\$ 804.00	\$ 250.00	\$ 750.00		\$ -
806	Pavement Marking (PCP)(Yellow)(4")	5350	L.F.	\$ 2.35	\$ 12,572.50	\$ 2.20	\$ 11,770.00	\$ 2.30	\$ 12,305.00		\$ -
806	Pavement Marking (PCP)(White)(4")	5149	L.F.	\$ 2.35	\$ 12,100.15	\$ 2.20	\$ 11,327.80	\$ 2.30	\$ 11,842.70		\$ -
806	Pavement Marking (PCP)(White)(6")	110	L.F.	\$ 4.00	\$ 440.00	\$ 4.40	\$ 484.00	\$ 4.30	\$ 473.00		\$ -
Sp. Prov.	Monument Box	1	Ea.	\$ 600.00	\$ 600.00	\$ 630.00	\$ 630.00	\$ 600.00	\$ 600.00		\$ -
	TOTAL BID THIS LOCATION				\$ 375,878.15			\$ 268,846.14			\$ 301,283.50

	PROJECT NO. 2010-6 - Bid No. 10-F-0015-Page 2			ENGINEER'S ESTIMATE							
SPEC. NO.	BIDDING ITEMS - Rte. 460 Segment	APPROX. QTYS.	UNIT	UNIT PRICE	EXT.	UNIT PRICE	EXT.	UNIT PRICE	EXT.	UNIT PRICE	EXT.
801	Mobilization	1	L.S.	\$ 3,000.00	\$ 3,000.00	\$ 1,210.00	\$ 1,210.00	\$ 7,950.00	\$ 7,950.00		\$ -
Sp. Prov./805	Traffic Control	1	L.S.	\$ 3,000.00	\$ 3,000.00	\$ 3,300.00	\$ 3,300.00	\$ 5,550.00	\$ 5,550.00		\$ -
611/Sp. Prov.	HMA - Commercial Grade (Class A)(Surface)	3427	Tons	\$ 55.00	\$ 188,485.00	\$ 53.69	\$ 183,995.63	\$ 50.00	\$ 171,350.00		\$ -
612/Plans	Milling (2" Nominal)	1959	S.Y.	\$ 4.00	\$ 7,836.00	\$ 2.63	\$ 5,152.17	\$ 3.00	\$ 5,877.00		\$ -
833/611 Sp. Prov.	HMA - Commercial Grade (Class A)(Patch)	353	Tons	\$ 110.00	\$ 38,830.00	\$ 102.00	\$ 36,006.00	\$ 119.00	\$ 42,007.00		\$ -
Plans/1113	Aggregate Shouldering (AS-1)	349	Tons	\$ 25.00	\$ 8,725.00	\$ 26.60	\$ 9,283.40	\$ 40.00	\$ 13,960.00		\$ -
Sp. Prov./805	Flagger (Set)	1	Hour	\$ 40.00	\$ 40.00	\$ 40.00	\$ 40.00	\$ 40.00	\$ 40.00	\$ 40.00	\$ 40.00
804/Sp. Prov.	Maintenance & Restoration of Haul Roads (Set)	1	L.S.	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00
Sp. Prov.	Monument Box	2	Ea.	\$ 600.00	\$ 1,200.00	\$ 630.00	\$ 1,260.00	\$ 600.00	\$ 1,200.00		\$ -
	TOTAL BID THIS LOCATION				\$ 252,116.00		\$ 241,247.20		\$ 248,934.00		

SPEC. NO.	BIDDING ITEMS - Rte. 1029 Segment	APPROX. QTYS.	UNIT	UNIT PRICE	EXT.	UNIT PRICE	EXT.	UNIT PRICE	EXT.	UNIT PRICE	EXT.
801	Mobilization	1	L.S.	\$ 5,000.00	\$ 5,000.00	\$ 420.00	\$ 420.00	\$ 8,950.00	\$ 8,950.00		\$ -
Sp. Prov./805	Traffic Control	1	L.S.	\$ 4,000.00	\$ 4,000.00	\$ 2,625.00	\$ 2,625.00	\$ 5,550.00	\$ 5,550.00		\$ -
611/Sp. Prov.	HMA - Commercial Grade (Class A)(Surface)	3037	Tons	\$ 55.00	\$ 167,035.00	\$ 53.97	\$ 163,906.89	\$ 50.00	\$ 151,850.00		\$ -
Sp. Prov./805	Flagger (Set)	1	Hour	\$ 40.00	\$ 40.00	\$ 40.00	\$ 40.00	\$ 40.00	\$ 40.00	\$ 40.00	\$ 40.00
Sp. Prov.	Monument Box	1	Ea.	\$ 600.00	\$ 600.00	\$ 630.00	\$ 630.00	\$ 600.00	\$ 600.00		\$ -
	TOTAL BID THIS LOCATION				\$ 176,675.00		\$ 167,621.89		\$ 166,990.00		
	GRAND TOTAL BID ALL LOCATIONS				\$ 1,310,819.15		\$ 1,104,618.00		\$ 1,199,999.90		

MEMORANDUM

To : Board of County Commissioners

From : Keith A. Browning, P.E., Director of Public Works/County Engineer

Date : June 24, 2010

Re : Consider approval of Interlocal Cooperation Agreement associated with the US-56 Corridor Management Plan

KDOT collaborated with Johnson County, Douglas County, Baldwin City, Edgerton, Gardner, the Lawrence/Douglas County MPO and MARC to conduct a US-56 corridor management study. The extents of the study corridor are from US-59 in Douglas County to I-35 in Gardner. The purpose of the study is to “prepare a corridor management plan that will: serve as a framework for future potential highway enhancements; identify and preserve right-of-way that may be necessary to accommodate any projected enhancements; describe and identify access management objectives for the transportation corridor; and promote effective inter-connectivity of the local street/road network with the highway.”

Three agreements are needed in conjunction with this effort: (1) Partnership Agreement, (2) Project Agreement, and (3) Implementation Agreement. In September 2008, the parties entered into the Partnership Agreement. The Partnership Agreement essentially says the partners will work together to complete this study and create a regional vision for the corridor. It sets the tone for regional cooperation. In March 2009, the parties entered into the Project Agreement. The Project Agreement specifies funding and other responsibilities of each partner.

Now that the corridor management plan has been completed, KDOT is asking participating entities to enter into an Implementation Agreement, or “Interlocal Cooperation Agreement”. The Implementation Agreement states that each partner will enact local decisions to protect the operational integrity of the highway corridor and endeavor to implement the recommendations contained in the US-56 Corridor Management Plan. David Gurss, KDOT Bureau of Transportation Planning, will attend the BOCC meeting to discuss the Interlocal Cooperation Agreement.

A copy of the Interlocal Cooperation Agreement is attached. The BOCC may want to simply discuss the agreement during the June 30 meeting, then put approval of the agreement on a near-future agenda.

Action Required: Discuss the Interlocal Cooperation Agreement associated with the US-56 Corridor Management Plan, and consider approval of the agreement.

INTERLOCAL COOPERATION AGREEMENT

PARTIES: **Debra L. Miller**, Secretary of Transportation, Kansas Department of Transportation (KDOT), hereinafter referred to as the "Secretary,"

Johnson County, Kansas, hereinafter referred to as "Johnson County,"

Douglas County, Kansas, hereinafter referred to as "Douglas County,"

City of Gardner, Kansas, hereinafter referred to as "Gardner,"

City of Edgerton, Kansas, hereinafter referred to as "Edgerton,"

City of Baldwin City, Kansas, hereinafter referred to as "Baldwin City,"

Lawrence-Douglas County Metropolitan Planning Organization, hereinafter referred to as "Lawrence-Douglas County MPO," and

Mid-America Regional Council, hereinafter referred to as "MARC,"

Collectively referred to as the "Parties."

PURPOSE: To formally acknowledge the commitment of the Parties to cooperatively implement the US-56 Corridor Management Plan (hereinafter the "Management Plan") with the objective of preserving the integrity of the Corridor as growth and development within the Corridor increase.

Furthermore, to serve as a framework for cooperation among the Parties by setting forth the roles each of the Parties agrees to undertake, both individually and jointly, to preserve the Corridor's integrity; to enhance opportunities for economic development within the Corridor that will benefit the Parties, other communities along the Corridor, and all residents of the State of Kansas; and to develop an effective interface between the Highway and the land uses and the local street network within the Corridor.

AUTHORITY:

The authority of the Parties to enter into this agreement to jointly undertake the Management Plan includes, but is not limited by K.S.A. 68-404(j) and 68-407, Article 12, § 5 of the Kansas Constitution, K.S.A. 19-101a et seq. and K.S.A. 12-2901 et seq.

EFFECTIVE DATE:

The Parties, on _____, 2010, in consideration of the premises, and to secure the approval of this Agreement, mutually agree to perform in accordance with this Agreement.

DEFINITIONS:

Corridor – an area of land that is within one mile of both sides of the centerline of US-56 along the segment of that Highway beginning at US-59 and ending at I-35.

Highway – US-56

Management Plan – the plan that the Parties have jointly participated in the preparation of and prepared or caused to be prepared for the Corridor, as the Management Plan is amended from time to time in accordance with Section F of this Agreement.

A. GENERAL PROVISIONS:

1. The Highway is an important component of the transportation system of Kansas, serving an area that is expected to experience significant growth and development over the next several years.

2. The Parties have jointly prepared or caused to be prepared and participated in the preparation of the Management Plan, (which Management Plan is attached hereto as Exhibit A and incorporated by reference as if fully set forth herein) to accomplish the following objectives:

- preserve this transportation corridor;
- protect the functionality of the Highway into the future;
- establish a framework for the proper interface between the Highway and the local street/road network and all adjacent development;
- provide opportunities for economic development along the Corridor; and
- suggest tools and strategies that the Parties may employ in a beneficial way, when situations arise, to aide in implementation of the Management Plan's recommendations..

The goal of the Parties is to accomplish the above objectives, with sensitivity to the long range plans of the cities and counties within the Corridor and to the need to manage access so that the objectives of interested constituencies are achieved, to the greatest extent possible.

3. The Management Plan was drafted after extensive citizen and elected and appointed official participation. This participation was designed to obtain stakeholder and community input, including, but not limited to: county and city meetings; advisory group meetings, technical committee meetings; public officials meetings; and general public involvement and to achieve consensus among the Parties on a vision for development of the Corridor that may benefit all the Parties, community stakeholders and the public in general.

4. This Agreement is intended to serve as a framework for cooperation among the communities along the Corridor in the mutual implementation of the Management Plan. Its goal is to create duties and obligations among the Parties to take action, wherever deemed appropriate, to facilitate the successful implementation of the Management Plan.

B. SECRETARY AGREES:

1. to designate a representative of KDOT to serve as the contact for all matters related to the Management Plan;

2. to consult with the other Parties on passage of regulations establishing building or setback lines along the Corridor;

3. to work with the Parties to identify and employ innovative rights-of-way and corridor preservation techniques;

4. to streamline the processing of required KDOT design review and approvals, such as access permits and similar approvals, when KDOT finds that the application clearly evidences that the approval being sought is consistent with the Management Plan;

5. to cooperate with the Parties in identifying existing access points along the Highway and to reach a mutual agreement on proactively closing those points, where doing so will implement the access management goals of the Management Plan;

6. whenever reasonably possible, and when consistent with governing funding criteria, provide priority funding for projects that conform to the Management Plan and that will be located in or benefit a city or county that has made a good faith effort to participate in the implementation of the Management Plan; and.

7. work cooperatively with the Parties on all issues rising in the Corridor.

C. NON-KDOT PARTIES AGREE:

1. to designate a representative to serve as the contact for all matters related to the Management Plan;

2. to undertake a cooperative effort to implement the Management Plan;

3. to cooperate with KDOT in identifying opportunities to preserve and acquire needed additional right-of-way, as well as preserving and acquiring right-of-way, so the Management Plan may be successfully implemented in a reasonable timeframe:

4. to, as is necessary and appropriate, consider each of the tools identified in the Implementation Chapter of the Management Plan and where deemed appropriate, given current and future circumstances, utilize identified tools to facilitate in implementing the Management Plan;

5. to give the KDOT representative (at least consistent with that given adjacent landowners) notice of applications for development approvals that reasonably could be expected to have significant impact on the Corridor, such as frontage along the Highway, access to the Highway, access to a crossroad that would impact a Highway intersection, or a proposed land use expected to generate significant traffic; and

6. to consult with KDOT before considering approval of any preliminary plat application filed for the subdivision of any land located within one-half mile of the Highway, except that Gardner, Edgerton and Baldwin City would not need to consult with KDOT when said preliminary plat is located in an already developed area of the city and would not be expected to have significant impact on the Corridor.

D. ALL PARTIES AGREE:

1. to uphold the original Partnership Agreement, dated December 15 , 2008, and to continue to actively participate in the collaborative effort created therein;

2. to maintain continual, open and full communications between the Parties with respect to any and all matters that may have the potential to impact the Highway, the Corridor or any areas covered by the Management Plan;

3. to utilize appropriate tools, including planning, regulatory and financial tools, such as those identified in the Management Plan, to preserve and acquire the rights-of-way needed for enhancements to the Highway and the local street network, as shown in the Management Plan, and to otherwise implement the Management Plan;

4. to support this cooperative effort, as needed, by entering into study and interlocal cooperation agreements, related to preparation and implementation of the Management Plan, and project agreements related to the study, retrofit, or improvements that are deemed to be critical to the Corridor;

5. to develop land, utilities, and roadways within and adjacent to the Corridor in an orderly and efficient manner; and

6. to undertake a cooperative effort to:

- preserve, obtain, dedicate or acquire the rights-of-way for future improvement identified in the Management Plan;
- during the short term, take measures, including the installation of interim improvements, that are reasonably and mutually agreed upon to preserve the functionality of the Highway;
- pursue funding for and discuss the appropriate allocation of cost between the Parties for enhancements to the highway mainline shown on the Management Plan, as well as its connecting links;
- coordinate the interconnectivity of the local street/road network with the Highway; and
- use, wherever appropriate, the full range of planning and corridor preservation tools and techniques.

E. CORRIDOR ADVISORY COMMITTEE:

1. The Parties agree that a Corridor Advisory Committee ("Committee") will be established within sixty (60) days of the execution of this Agreement. The purpose of the Committee is to serve as an advisory body to regularly review, evaluate, facilitate discussions of and provide input on events and developments that may have an impact on the Corridor and the Management Plan, and to assist in the continuing development and update of the Management Plan and its implementation strategies. The Committee shall not have any authority regarding powers vested in cities, counties or KDOT, pursuant to state law.

2. The Committee shall be composed of one representative of each Party for a term to be determined by that Party. The members of the Committee shall each year elect one member to serve as the Chair of the Committee. The Committee shall meet whenever the Chair determines that a meeting is appropriate, but shall, at a minimum, meet twice a year.

3. A majority of the members appointed shall constitute a quorum to do business. A vote of a majority of Committee members present at a Committee meeting shall be required to pass any measure.

F. CORRIDOR MANAGEMENT PLAN AMENDMENT:

1. It is understood by the Parties to this Agreement that this Section F of the Agreement applies only to the amendment of the Corridor Management Plan by KDOT. It does not apply to the amendment of comprehensive plans by the Non-KDOT parties to this Agreement whether or not those parties have incorporated the Corridor Management Plan into their comprehensive plan. This Section is to guarantee that a process exists to ensure that the Non KDOT parties are afforded an opportunity to institute recommendations to KDOT on amendments to the Corridor Management Plan and that a process is established that gives all Parties to this Agreement a venue to provide meaningful input to KDOT during any Corridor Management Plan amendment process instituted by KDOT. Local comprehensive plans shall

remain subject to the local amendment process established by State of Kansas planning and zoning statutes; provided that, the parties to this Agreement further understand that no local amendment to the comprehensive plan of any Party to this Agreement, which also amends the Corridor Management Plan as adopted by that Party, or otherwise to any corridor management plan developed in cooperation with KDOT and adopted by that party shall constitute an amendment to or bind KDOT in the amendment by KDOT of the Corridor Management Plan.

2. Once every two years or upon the receipt of a written request outlining specific recommendations signed by three-fourths of the then current members of the Committee, the Parties shall review or reconsider the Management Plan and may propose amendments or extensions to the Management Plan.

3. Ninety (90) days prior to initiation of review of the Management Plan by KDOT, or fifteen (15) days after receipt of a written request from the Committee, as specified above, KDOT shall provide the Parties and the Committee with written notice of its intent to initiate review. The notice shall set a date by which comments shall be submitted to KDOT regarding review and reconsideration of the Management Plan; provided, however, that the date for submission of comments shall not be less than thirty (30) days before KDOT initiates its review. Provided, further that all reviews and comments submitted by the Non KDOT Parties to this Agreement shall be undertaken, prepared and submitted in accordance with State of Kansas planning and zoning statutes.

4. Thirty (30) days prior to the adoption by KDOT of any change to the Management Plan, KDOT shall provide the Parties and the Committee with written notice of its intent to adopt changes to the Management Plan and shall set forth the specific changes KDOT is proposing be adopted. KDOT shall provide a minimum of fifteen (15) days for the Parties and the Committee to submit written comments to KDOT regarding the proposal prior to adopting any changes.

G. FUNDING:

Each of the Parties herein, except where otherwise specifically agreed to in writing between the Parties, shall bear their own administrative costs related to their participation in the implementation of the Management Plan.

H. ADMINISTRATION:

KDOT shall be responsible for administering this cooperative undertaking; provided that, it is anticipated that the cooperative implementation of the Management Plan, as provided for in this Agreement, will require joint operational administration. Each party will assume administrative responsibility for its own participation in this cooperative undertaking. This provision is not intended to grant to any party any control over any other party with respect to the separate and independent powers vested in each party by the Constitution and laws of the State of Kansas.

I. REAL AND PERSONAL PROPERTY:

Real or personal property will not be jointly acquired, held, or disposed of in furtherance of this cooperative undertaking. It is anticipated that additional rights of way will be acquired by dedication or purchase to accommodate the Corridor, as shown on the Management Plan. When and to the extent real or personal property is acquired, held, or disposed of by a party to this Agreement, pursuant to its independent participation in the Agreement, that property shall be acquired, held, and disposed of by that party, in accordance with any laws or regulations that would normally govern those actions.

J. TERM/TERMINATION:

The initial term of this Agreement shall be for a period of twenty years commencing from the Effective Date of this Agreement. At the conclusion of the initial term, the Agreement shall automatically renew for an additional term of twenty years, unless terminated in writing to all Parties not less than thirty (30) day before the termination of the then current term, including the initial term.

K. NOTICE:

1. Every notice contemplated in the agreement must be in writing and sent by one of the following methods: (1) personal delivery; (2) United States Postal Service, first class mail, postage prepaid; (3) facsimile transmission; or (4) email.

2. The notice or other communication sent to a party must be directed to the address for that party set forth below, or to another address designated by that party by written notice:

Kansas Department of Transportation
Attn: Jerome T. Younger, P.E.
Deputy Secretary for Engineering and
State Transportation Engineer
Dwight D. Eisenhower State Office Building
700 S.W. Harrison St.
Topeka, KS 66603-3754
Email: Jerome@ksdot.org

Johnson County
Attn: Brian Pietig
Address: 1800 W. 56 Highway
Olathe, KS 66061
Fax: 913-715-2453
Email: brian.pietig@jocogov.org

Douglas County
Attn: Keith Browning, P.E.
Address: Douglas County Public Works
1242 Massachusetts
Lawrence, KS 66044
Fax: 785-841-0943
Email: browning@douglas-county.com

City of Gardner
Attn: Celia J. Duran, P.E.
Address: 120 E. Main
Gardner, KS 66030
Fax: 913-856-0995
Email: cduran@gardnerkansas.gov

City of Edgerton
Attn: City Administrator
Address: P.O. Box 255
Edgerton, KS 66021
Fax: 913-893-6232
Email: ddillner@edgertonks.org

City of Baldwin City
Attn: City Administrator
Address: P.O. Box 86
Baldwin City, KS 66006
Fax: 785-594-6586
Email: jdingman@baldwincity.org

Lawrence-Douglas County MPO
Attn: Todd Girdler, Senior Transportation Planner
Address: 6 E. 6th St.
Lawrence, KS 66044-0708
Fax: 785-832-3155
Email: tgirdler@ci.lawrence.org/pds/

Mid-America Regional Council
Attn: David Warm, Executive Director
Address: 600 Broadway
Kansas City, MO 64105
Fax: 816-721-7758
Email: dwarm@marc.org

L. AUTHORIZATION TO EXECUTE:

Each of the Parties to this Agreement represents and warrants they have authority to execute this agreement. This Agreement may be executed in two or more counterparts, and each executed counterpart shall be effective as a complete document.

M. NO PARTNERSHIP CREATED:

It is mutually understood and agreed that nothing contained in this Agreement is intended or shall be construed, in any manner or under any circumstances whatsoever, as creating or establishing the relationship of co-partners or creating or establishing the relationship of a joint venture between the Parties.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be signed by their duly authorized officers on the day and year first above written.

The signature page immediately follows this paragraph.

Debra L. Miller, Secretary of Transportation, Kansas Department of Transportation

BY: _____

Jerome T. Younger, P.E.
Deputy Secretary for Engineering and
State Transportation Engineer

The County of Johnson

ATTEST:

Becky Williams, County Clerk
(SEAL)

Annabeth Surbaugh, Chairman of the Board

The County of Douglas

ATTEST:

Jamie Shew, County Clerk
(SEAL)

Nancy Thellman, Commission Chair

The City of Gardner

ATTEST:

Teresa Anderson, City Clerk
(SEAL)

David C. Drovetta, Mayor

The City of Edgerton

ATTEST:

David Dillner, Interim City Clerk
(SEAL)

Donald Roberts, Mayor

The City of Baldwin City

ATTEST:

Darcy Higgins, City Clerk
(SEAL)

Ken Wagner, Mayor

Lawrence-Douglas County Metropolitan Planning Organization

ATTEST:

(SEAL)

Lisa Harris, Chair

Mid-America Regional Council

ATTEST:

(SEAL)

David Warm, Executive Director

APPROVED AS TO FORM AND AS IS COMPATIBLE WITH THE LAWS OF THE STATE.

Office of the Attorney General

MEMORANDUM

TO : Douglas County Board of County Commissioners
Craig Weinaug, Douglas County Administrator

FROM: Keith R. Dabney, Director, Zoning & Codes Department

DATE : June 23, 2010

RE : Temporary Business Use Permit – Property Location 1014 N 1800 RD, Lawrence, KS
USA Cycling Cyclocross Events

Mr. Bill Anderson is requesting a Temporary Business Use Permit for the use of property located at 1014 N 1800 Road, to host USA Cycling Cyclocross racing events and free clinics. The events consist of four (4) days of race events and four (4) days of free clinics for the dates as follows:

<u>Date of Events</u>	<u>Event Descriptions and Sponsors</u>
July 24, 2010	Track Championship Grass Track & Cyclocross Races (Anderson Rental; Localcycling.com; Vittoria Tires; Voker Bicycles)
July 25, 2010	Grass Track & Cyclocross Races (Anderson Rental; Localcycling.com; Vittoria Tires; Voker Bicycles)
Sept. 9, 2010	Free Clinic
Sept. 16, 2010	Free Clinic
Sept. 23, 2010	Free Clinic
Sept. 30, 2010	Free Clinic
Nov. 6, 2010	Ladies Free State Cyclocross Races
Nov. 7, 2010	Vet Cross Cyclocross Races

(Bill Anderson and Michelle Jenson)

(Lanterne Rouge; and others TBD)

Racing events will take place between mid-morning and mid-afternoon, with no evening events. All events will be held entirely on the property with all parking on-site. No alcoholic beverages will be served at the Events. Event participants and spectators will provide their own food and beverages.

The applicant anticipates attendance as follows:

- Race Events – Between 40 – 150 participants and equal number of spectators.
- Clinic Events – Between 5 – 20 participants and no spectators.

The following have been notified with regard to this request, Douglas County Sheriff's Department, Douglas County Health Department, Wakarusa Township, adjoining property owners within 1,000 feet and property owners within one mile of the entrance.

**USA CYCLING CYCLOCROSS RACING EVENTS
TEMPORARY BUSINESS USE SITE PLAN
SITUS: 1014 N 1800 ROAD, LAWRENCE KS 66049**



MEMORANDUM

TO : Douglas County Board of County Commissioners
Craig Weinaug, County Administrator

FROM: Keith R. Dabney, Director, Zoning & Codes Department
Amy Brown Miller, Long Range Planner, Planning & Development Services

DATE : July 2, 2010

RE: Request for Approval of Text Amendments to the Floodplain Management Regulations (TA-4-7-10 and Chapter 12, Article 28 of the Douglas County Zoning Regulations)

As you are aware from previous discussions, the Federal Government (FEMA) has spent over \$1,000,000.00 for map modernization in Douglas County. The following is a complete listing of significant map modernization milestones:

- Scoping meeting held: 10/16/2007
- Maps went preliminary: 7/10/2009
- 30 day comment period began: 7/10/2009
- Letter of final determination sent: 2/5/2010
- Additional special informational meeting and open house: 6/2/2010
- Text amendments (TA-4-7-10) to Zoning Regulations-Planning Commission Approval on June 23, 2010, unanimously by 10-0 vote.

As part of the map modernization effort in Douglas County, the last phase is currently before you, which is the approval of revised floodplain regulations. (TA-4-7-10 and Chapter 12, Article 28 of the Douglas County Zoning Regulations) Once these regulations are approved by the Board of County Commissioner and Chief Engineer of Division of Water Resources, Kansas State Board of Agriculture and published in the newspaper, the regulations and maps will be effective on August 5, 2010.

The supporting documents being provided to you are as follows:

1. A New Home Rule Resolution
2. Planning Commission Minutes
3. Staff Report
4. Text Amendment

12-328 FLOODPLAIN MANAGEMENT REGULATIONS

12-328-1. STATEMENT OF PURPOSE AND INTENT

12-328-1.01. Statement of Purpose.

The management regulations set forth in this Section are the floodplain management regulations for the unincorporated portions of Douglas County. The purpose of these regulations is to protect individuals and property from flood hazards or flooding by providing for the orderly and safe development of the floodplain for the most advantageous uses which are consistent with the health, safety, and welfare of the general public and which are also consistent with sound practices for utilizing those areas required for the conveyance of specified stream flows in the regulatory floodway.

12-328-1.02. Intent.

- a.** The intent of these regulations is to avoid additional costs for home owners upon annexation and to minimize losses due to floods or flood waters by provisions designed to:
- 1) Prohibit the placement of fill, materials, and structures which would obstruct flood flows and decrease the storage capacity of the regulatory floodway unless it can be demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
 - 2) Require structures in the floodplain and public utilities vulnerable to floods be provided with flood protection at the initial construction stage.
 - 3) Protect individuals from the purchase of lands rendered unsuitable for intended uses by their proximity to floodplain.
 - 4) Minimize public expenditures for flood control projects and damage to public improvements within the floodplain.
 - 5) Maintain property values adjacent to the floodplain and minimize flood blight areas.
 - 6) Assure eligibility for property owners in the Federal Flood Insurance Program.
- b.** These regulations are designed and intended to be administered in a manner which will:
- 1) Restrict or prohibit uses dangerous because of water and erosion hazards or which will result in undue increases in erosion, flood heights, or velocities.
 - 2) Control grading (fill or excavation), dredging, and development which may unduly increase the potential for flood damage.
 - 3) Require that uses protect private and public investments by requiring floodproofing.
 - 4) Control alteration of floodplains, stream channels and natural barriers which accommodate or channel floodwaters.
 - 5) Prevent or regulate construction of barriers that unnaturally divert flood waters or cause increased flood hazards. Construction in floodplains should be directed to the outer limits of the Floodway Fringe before it is allowed to encroach further into the regulatory floodplain.

12-328-2. FLOODPLAIN OVERLAY DISTRICTS

The floodplain overlay districts shall include only those areas designated as floodplain by the Federal Insurance Study or by an approved Hydrologic and Hydraulic Study.

The floodplain overlay districts consist of: the "F-W" floodway overlay district; and, the "F-F" floodway fringe overlay districts.

12-328-3. FLOODPLAIN OVERLAY DISTRICTS MAP

The official floodplain overlay districts map shall be used in conjunction with the official zoning districts map. The official floodplain overlay districts map shall show the boundaries of the "F-W" floodway and the "F-F" floodway fringe overlay districts. These boundaries shall be consistent with the Floodway and Floodway Fringe as identified by the Federal Emergency Management Agency (FEMA) through a scientific and engineering report entitled, "The Flood Insurance Study for the County of Douglas, Kansas, and Incorporated Areas August 5, 2010 ~~November 7, 2001~~", with the accompanying Flood Insurance Rate Maps and revisions thereto.

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12-328-4. FLOOD INSURANCE

No part of this Section or any regulation therein shall be construed as affecting the eligibility for flood insurance of any structure existing at the time of publication of the Flood Insurance Rate Maps.

12-328-5. FLOODPLAIN DEVELOPMENT WITHIN THE CITY OF LAWRENCE URBAN GROWTH AREA (UGA)

12-328-5.01. Development of Property in the Floodplain Overlay District. Development of land or subdivision of property (including lot splits) within the City of Lawrence Urban Growth Area (UGA) and a floodplain overlay district shall be permitted only where an approved hydrologic and hydraulic study demonstrates that there will be no rise in the base flood elevation and no increase in flood velocities at any point resulting from the proposed development.

- a. Property platted prior to June 1, 2005, may develop and/or re-plat or subdivide (including lot splits) for non-residential uses without conducting a hydrologic and hydraulic study. Such development is still subject to the remaining sections of this Article.
- b. Development of undeveloped property that was platted prior to June 1, 2005 may occur without conducting a hydrologic and hydraulic study until January 1, 2007. Such development is still subject to the remaining sections of this Article. After January 1, 2007 development of the property is subject to all sections contained within this Section.

12-328-5.02. Floodway Restrictions. Any encroachment, including fill, new construction, substantial improvements, or other development is prohibited within the F-W Overlay District, except for the following structures:

- a. Flood control and stormwater management structures;
- b. Road improvements and repair;
- c. Utility easements/Rights-of Way; and,
- d. Public improvements or public structures for bridging the Floodway.

12-328-5.03. Hydrologic and Hydraulic Study

- a. Hydrologic and hydraulic studies shall comply with the following standards:
 - 1) The study shall be signed and sealed by a professional engineer, licensed in the State of Kansas;
 - 2) The study shall be submitted for approval by the Douglas County Director of Public Works concurrent with the initial submittal of a floodplain development permit application, preliminary plat, development plan or site plan;
 - 3) Hydrologic and hydraulic methods of analysis shall be consistent with those used

- in the current Flood Insurance Study for Douglas County;
- 4) The study shall extend an adequate distance upstream and downstream of the proposed development to encompass the hydraulic effects of the proposed development;
 - 5) The study shall determine the water surface elevations of the base flood for the existing stream and for any proposed development. Based on the assumption of full watershed development and other factors, the findings of the hydrologic and hydraulic study may differ from the Flood Insurance Study. At a given location, the higher water surface elevation shall be the base flood elevation for compliance with the provisions of this section;
 - 6) The study shall identify the velocities of the base flood for the existing stream and for any proposed development;
 - 7) The study shall determine the areas of inundation of the base flood for the existing stream and for any proposed development. The area of inundation shall be dimensioned to the property corners for use in revising the floodplain overlay districts on all property within the extent of the study; and,
 - 8) In areas outside Zone AE, the study shall also identify the Floodway for the proposed development.
- b. For a hydrologic and hydraulic study that proposes an alteration of FEMA's designated floodplain or Floodway, a letter of map revision (LOMR) must be obtained before a building permit will be used for any lot containing a Zone A, AE, AH or AO of the current FIRM.

12-328-5.04. Land Disturbance. Land disturbance or removal of vegetation within the floodplain overlay districts shall be minimized to the extent possible. When excavation, grading, removal of vegetation or other modifications to the cross-sectional geometry of the floodplain are proposed in order to meet the requirements set forth in section 12-328-5.01, those modifications shall comply with the following:

- a. Construction plans shall be prepared for the proposed modifications and shall be submitted for review and approval by the Douglas County Director of Public Works.
- b. As approved by the Douglas County Director of Public Works:
 - 1) Channel lining materials shall be limited to native vegetation, stabilized as necessary to prevent erosion. The use of concrete lining, pipe or other structural materials shall be minimized;
 - 2) Within the area of inundation, all disturbed areas above the channel lining shall be restored with native vegetation, including trees, to promote wildlife habitat; and,
 - 3) Channel designs shall preserve existing low-flow channels to the extent possible.

12-328-6 DEVELOPMENT STANDARDS AND CRITERIA

12-328-6.01. General Standards. Development in areas that are included in the floodplain overlay districts shall be required to meet the following general standards:

- a. No structure, fill, or other uses within the floodway overlay district shall be permitted which will increase the base flood elevation.
- b. Public improvements shall be waterproofed to the base flood elevation. Any space below the base flood elevation shall be watertight with walls substantially impermeable to the passage of water with structural components having the capabilities of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. The interior and content of the structures shall remain substantially dry.
- c. Water lines shall be designed to eliminate infiltration of flood waters into systems.

- d. Sewer lines shall be designed to eliminate infiltration of flood waters into systems and discharge from the systems into the floodwaters.
- e. Residential Construction: New construction or substantial improvements of a residential structure shall be elevated, anchored to prevent flotation, collapse, or lateral movement of the structure and shall be constructed to resist and minimize flood damage. Construction shall be with materials resistant to flood damages, utilizing methods and practices that minimize flood damages, and with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- f. Non-Residential Construction: All new construction and substantial improvements that fully enclose areas below the lowest floor which are usable solely for parking of vehicles, building access or storage in an area other than a basement; and, which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exist of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria; A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- g. Storage of materials or equipment may be allowed if not subject to major damage by floods and firmly anchored to prevent floatation or if readily removable from the area within the time available after the flood warning. Storage of materials that are buoyant, flammable, explosive or potentially injurious to human life at times of flooding shall not be permitted.
- h. On site waste disposal systems shall be designed to avoid impairment due to flooding.
- i. All new construction and substantial improvements that fully enclose areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- j. Until a Floodway is designated, no new construction, substantial improvements, or other development, including fill, shall be permitted within any unnumbered or numbered A zones, or AE zones on the FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

12-328-6.02. Specific Standards. In addition to these general standards, development shall be required to meet the following specific standards:

- a. Residential Construction. New construction and substantial improvement of residential structures shall have the lowest floor, including basement, elevated: a) a minimum of two feet above the base flood elevation when located within the Urban Growth Area

(UGA) of Lawrence, or, b) a minimum of one foot above the base flood elevation when located outside the Urban Growth Area of Lawrence but within the unincorporated area of Douglas County.

- b. Non-Residential Construction. All new construction and substantial improvements of non-residential structures shall have ~~a)~~ (a) either (i) the lowest floor (including basement) elevated a minimum of one foot above the base flood elevation; or, ~~b)~~ (ii) together with attendant utility and sanitary facilities, be designed so that below one foot above the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and ~~c)~~ (b) a registered professional engineer or architect develop and/or review the structural design, specifications and plans for the construction and shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting applicable provisions of the Federal Emergency Management Regulations [44FR311177, the Section 60.3 (c)(3)(ii) & Section 60.3 (c)(8)(ii), and amendments thereto.]
- c. Existing Manufactured (Mobile) Home Park – All manufactured homes to be placed in an existing park located in a floodplain overlay district are required to be firmly secured to an adequately anchored foundation system to resist floatation, collapse, or lateral movement, which may include, but is not limited to, the use of over-the-top or frame ties to ground anchors. (This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.)
- d. Manufactured (mobile) homes to be placed or substantially improved in an expansion to an existing manufactured (mobile) home park where the repair, reconstruction, or improvement of the streets, utilities and pads equals or exceeds 50 percent of the value of the streets, utilities and pads before the repair, reconstruction or improvement has commenced are required to have the manufactured home chassis elevated by reinforced piers or other foundation elements of at least equivalent strength that are no less than thirty-six inches in height above grade and be securely attached to an adequately anchored foundation such that the lowest floor of the manufactured home is elevated at least two feet above the base flood elevation.
- e. A licensed land surveyor or professional engineer shall certify that the elevation of a proposed structure is above the specified base flood elevation.
- f. In areas where a base flood elevation has not been provided by the FIS, the county shall obtain, review and reasonably utilize any base flood elevation and Floodway data available from federal, state or other sources until such other data has been provided by FEMA for use and enforcement of this chapter.
- g. Require that recreational vehicles placed on sites within the identified floodplain on the community's FIRM either 1) be on the site for fewer than 180 consecutive days, 2) be fully licensed and ready for highway use, or 3) meet the permit requirements and the elevation and anchoring requirements for manufactured homes in this ordinance. A recreation vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.
- h. All proposals for development must include base flood elevation data.
- i. In Zone AO and AH, adequate drainage paths shall be required around structures on slopes, in order to guide floodwaters around and away from proposed structures.

12-328-6.03. Letter of Map Revision (LOMR). Structures placed on property that has been removed from the floodplain by a LOMR shall have the lowest floor, including basement,

elevated above the base flood elevation in compliance with section 12-328-6-02.

12-328-7. ADMINISTRATION AND RECORDS

12-328-7.01. Administration. The Director of Zoning and Codes shall be vested with the administration of these regulations. It shall be his responsibility to review all requests for floodplain development permits and to enforce the regulations in this Section. Each permit shall be reviewed in consideration with the following:

- a. Satisfying all the requirements of this Section.
- b. Obtaining all the necessary permits from federal, state, or local government agencies prior to approval of the development permit.
- c. The location of the proposed development in relation to the Floodway and the assurance that any encroachment meet the standards in this Section, and K.S.A. 12-766.

12-328-7.02. Records. The Director of Zoning and Codes, as administrator of these regulations, shall record and maintain a record of all development permits issued.

Documentation of these permits shall include:

- a. The proposed use, residential or non-residential;
- b. The elevation of the regulatory floodway for the area developed; and,
- c. Certification that the elevation of the lowest floor is above the base flood elevation by the required; one foot in the unincorporated area of the County outside the Lawrence Urban Growth Area or, two feet within the Urban Growth Area of Lawrence.

The Director of Zoning and Codes shall submit a biennial report on the appropriate federal annual report form to the Administrator concerning the community's participation in the Federal Insurance Program.

12-328-8. DEVELOPMENT PERMIT

12-328-8.01. No development shall be made in, on, or over any land designated by this Section and shown on the official floodplain overlay district map as being within the floodway overlay districts without obtaining approval from the Director of Zoning and Codes.

12-328-8.02. Application for a development permit shall be made by the property owner or his certified agent to the Director of Zoning and Codes upon appropriate forms. Such application shall be made at least ten days prior to the approval of a development permit. The application shall be accompanied by a fee of Fifty Dollars; no part shall be returnable to the applicant after review of the permit request has begun. The application fee shall be made payable to the Director of Zoning and Codes.

12-328-8.03. Information required. An application for a development permit shall be accompanied by the following information:

- a. Identification and description of proposed use or development;
- b. Legal description of the property;
- c. Plan of the proposed development or use at a scale of one inch equals fifty feet or larger showing the Floodway and Floodway Fringe as designated by the Federal Insurance Administrator;
- d. Use and type of structures proposed;
- e. The elevation (in relation to mean sea level) of the lowest floor, including basements, of all structures or proposed fill;
- f. A statement of the elevation flood proofed by a licensed land surveyor **or professional engineer.**
- g. Proposed developments which include alteration of watercourses must:

- 1) In river or tributary situations, the Director of Zoning and Codes will notify any adjacent community, state coordinating agency for the National Flood Insurance Program, and the Federal Insurance Administration prior to any alteration or relocation of a watercourse.
 - 2) Evidence submitted by the applicant's engineer or architect showing that no adverse impacts will result from the alteration and the flood carrying capacity within the altered or relocated portion of the watercourse is not diminished.
- h.** Any additional data which the Director of Zoning and Codes or County Engineer requests which is pertinent to the issuance of a development permit.

12-328-9. CERTIFICATION OF ELEVATION

Within sixty days after a building permit has been issued, a certification of elevation must be received, approved and recorded at the Director of Zoning & Codes' Office.

The development permit must include certification from a land surveyor or professional engineer (licensed to do business in the State of Kansas) that the lowest floor, including basement, is a minimum of one foot above the base floodplain elevation. The building permit is null and void after said sixty day period if such certification is not provided. Occupancy of the structure shall be illegal prior to the approval of a development permit.

12-328-10. NON-CONFORMING USES AND STRUCTURES IN THE FLOODPLAIN

All non-conforming uses and structures within a floodway or regulatory floodway fringe overlay districts shall be subject to the following requirements in addition to other provisions of the County's Zoning Resolution.

12-328-10.01. No non-conforming use or structure shall be altered, repaired or modified unless a permit is issued under this Section.

12-328-10.02. No permit for the alteration, repair or modification of a non-conforming use in the Floodway Fringe shall be issued unless such alteration, repair or modification includes flood proofing by elevation to or above the base flood elevation. No permits shall be issued for alteration, repair or modification in the Floodway that will obstruct flow or increase the height of the base flood.

12-328-10.03. Uses or adjuncts thereof, which are or become nuisances shall not be entitled to continue as non-conforming uses.

12-328-10.04. The Director of Zoning and Codes, before issuing a development permit for the alteration, repair or modification of a non-conforming use or structure, shall request a decision from the Board of Zoning Appeals in determining the adequacy of the proposed flood proofing measures for the proposed alteration, repair or modification of the non-conforming use or structure. The Board of Zoning Appeals shall make this determination in accordance with the following specific criteria:

- a.** The susceptibility of the structure or use to flood damage.
- b.** The availability and expense of alternate floodproofing techniques.
- c.** The safety of the flood proofing measures.

12-328-11. AREAS OF SHALLOW FLOODING (ZONE AO AND ZONE AH)

The following provisions apply to areas designated as Zone AO and Zone AH:

12-328-11.01. Zone AO.

- a.** All development and substantial-improvements of residential structures, including mobile

homes or manufactured homes, shall have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified);

- b. All development and substantial-improvements of any commercial, industrial, or other non-residential structures shall have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community FIRM (at least two feet if no depth number is specified) or together with attendant utilities and sanitary facilities be completely floodproofed to that so that the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
- c. Drainage paths must be provided adequately to guide floodwaters around structures.

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12-328-11.02. Zone AH.

- a. The development standards for all areas of special flood hazard where base flood elevation has been provided shall be required as set forth in section 12-328-6 et al; and,
- b. Drainage paths must be provided adequately to guide floodwaters around structures.

12-328-12. AMENDMENTS

The regulations, restrictions, and boundaries set forth in this section may from time to time be amended, supplemented, changed, or repealed to reflect any and all changes in the National Flood Disaster Protection Act of 1973, provided, that prior to the adoption thereof, the Board of County Commissioners shall submit to the chief engineer of the Division of Water Resources of the State Board of Agriculture any ordinance, resolution, regulation or plan that proposes to create or to effect any change in a floodplain zone or district, or that proposes to regulate or restrict the location and use of structures, encroachments, and uses of land within such an area.

The chief engineer may require, pursuant to rules and regulations, each submission hereunder to be accompanied by complete maps, plans, profiles, specifications and textual matter. The chief engineer shall approve or disapprove any such ordinance, resolution, regulation or plan or changes thereof within 90 days of the date of receipt of all such data required by the chief engineer as specified in rules and regulations adopted thereby.

If the chief engineer fails to approve or disapprove within the 90 day period required by this section, such ordinance, resolution, regulation or plan or change thereof shall be deemed approved. The chief engineer shall provide, in writing, specific reasons for any disapproval.

12-328-13. DEFINITIONS

The following definitions are applicable to only the terms found in this section.

12-328-13.01. Agency. The Federal Emergency Management Agency (FEMA).

12-328-13.02. Areas of Special Flood Hazard. The land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year.

12-328-13.03. Base Flood. The flood having a one percent chance of being equaled or exceeded in any given year.

12-328-13.04. Base Flood Elevation. The water surface elevation of the base flood as

determined by the Flood Insurance Study or by an approved Hydrologic and Hydraulic Study, whichever is higher.

12-328-13.05. Community. Any State or area or political subdivision thereof, which has authority to adopt and enforce floodplain management regulations for the areas within its jurisdiction.

12-328-13.06. Development. Any man-made change to improved or unimproved real estate, including but not limited to, building or other structure, mining, fill, dredging, grading, paving, excavation or drilling operations (excluding wells for potable water), or storage of equipment or materials.

12-328-13.07. "Eligible Community". A community for which the Administrator has authorized the sale of flood insurance under the National Flood Insurance Program (NFIP).

12-328-13.08. Existing Construction. For the purposes of determining rates, structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. "existing construction" may also be referred to as "existing structures".

12-328-13.09. Existing Manufactured Home, Park or Subdivision. A manufactured home, park or subdivision for which the construction of facilities for servicing the lot(s) on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) are completed before March 2, 1981, the effective date of the adoption of the first County floodplain management regulations.

12-328-13.10. Existing Structures. (See "Existing Construction")

12-328-13.11. Expansion to an Existing Manufactured Home Park or Subdivision. The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, either final site grading or pouring of concrete pads, or the construction of streets.)

12-328-13.12. Flood. A general and temporary condition of partial or complete inundation of normally dry land areas from: 1) the overflow of inland waters; 2) the unusual and rapid accumulation or runoff of surface waters from any source; and 3) the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood, or by some similarly unusual and unforeseeable event which results in flooding as defined above in item 1).

12-328-13.13. Flooding. [See "Flood"].

12-328-13.14. Flood Insurance Rate Map (FIRM). The official map of a community on which both the special flood hazard areas and the risk premium zones have been delineated.

12-328-13.15. Flood Insurance Study (FIS). An examination, evaluation, and determination of flood hazards and, if appropriate, corresponding water surface elevations.

12-328-13.16. Floodplain. The land area inundated by a flood of a given magnitude as determined by the Flood Insurance Study or by an approved Hydrologic and Hydraulic Study.

12-328-13.17. Floodplain Management. The operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness flood control works, and floodplain management regulations.

12-328-13.18. Floodplain Management Regulations. Zoning ordinances, subdivision regulations, building codes, health regulations, special purposes (such as floodplain and grading ordinances) and other applications of police power. The term describes such state or local regulations, in any combination thereof that provide standards for the purpose of flood damage prevention and reduction.

12-328-13.19. Floodproofing. Any combination of structural and nonstructural additions, changes, or adjustments to structures that reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, or structures and their contents.

12-328-13.20. Floodway. The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

12-328-13.21. Floodway Encroachment Lines. The lines marking the limits of Floodways on Federal, State and local floodplain maps.

12-328-13.22. Floodway Fringe. The area outside the Floodway encroachment lines, but still subject to inundation by the regulatory flood.

12-328-13.23. Freeboard. A factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and Floodway conditions, such as bridge openings and the hydrological effect of urbanization of the watershed.

12-328-13.24. Habitable Floor. Any floor usable for living purposes, which include working, sleeping, eating, cooking or recreation, or a combination thereof.

12-328-13.25. Highest Adjacent. The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

12-328-13.26. Historic Structure. Any structure that is: a) Listed individually in the National Register of Historic places (a listing maintained by the Department of Interior) or preliminary determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; b) certified or preliminary determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminary determined by the Secretary to qualify as a registered historic district; c) individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or d) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either: 1) by an approved state program as determined by the Secretary of the Interior or 2) directly by the Secretary of the Interior in states without approved programs.

12-328-13.27. Hydrologic and Hydraulic Study. An engineering study that is done in accordance with section 12-328-5.03 et al.

12-328-13.28. Lowest Floor. The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render to structure in violation of the applicable non-elevation design requirements of this ordinance.

12-328-13.29. Manufactured Homes [See "Mobile Home"]

12-328-13.30. Market Value. An estimate of what is fair, economic, just and equitable value under normal local market conditions. If market value cannot be determined, the construction estimate can be used.

12-328-13.31. Mean Sea Level. For purposes of the National Flood Insurance Program (NFIP), the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map (FIRM) are reference.

12-328-13.32. Mobile or Manufactured Home. A structure, transportable in one or more sections, that is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The terms "mobile home" or "manufactured home" does not include a "recreational vehicle".

12-328-13.33. New Construction. For the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of the floodplain management regulations adopted by a community and includes any subsequent improvements to such structure.

12-328-13.34. Overlay District. A special zoning district that has been "overlaid" on a base zoning classification to add to or alter some or all of the base district zoning regulations.

12-328-13.35. Participating Community. [See "Eligible Community"]

12-328-13.36. Person. Includes any individual or group of individuals, corporation, partnership, association, or any other entity, including Federal, State, and local governments and agencies.

12-328-13.37. Principally Above Ground. When at least 51 percent of the actual cash value of the structure, less land value, is above ground.

12-328-13.38. Recreational Vehicle. A vehicle which is a) built on a single chassis; b) 400 square feet or less when measured at the largest horizontal projections; c) designed to be self-propelled or permanently able to be towed by a light-duty truck; and d) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security

devices, and has no permanently attached additions.

12-328-13.39. Special Flood Hazard Area (SFHA). See ["Area of Special Flood Hazard"].

12-328-13.40. Start of Construction. This includes substantial improvements, and means the date the building permit was issued, provided the actual start of construction, repair reconstruction, placement, or other improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the state of excavation or placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footing, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

12-328-13.41. State Coordinating Agency. The Division of Water Resources, Kansas Department of Agriculture, or other office designated by the governor of the state or by state statute at the request of the Administrator to assist in the implementation of the National Flood Insurance Program (NFIP) in that state.

12-328-13.42. Structure. For the purpose of this section the definition of structure shall mean, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home. "Structure" for insurance purposes, means a walled and roofed building, other than a gas or liquid storage tank that is principal above ground and affixed to a permanent site, as well as a manufactured home on a permanent foundation. For the latter purpose, the term includes a building while in the course of construction, alteration or repair, but does not include building materials or supplies intended for use in such construction, alteration or repair, unless such materials or supplies are within an enclosed building on the premises.

12-328-13.43. Substantial Damage. Damage of any origin sustained by a structure whereby the cost of restoring the structure to it's before damage condition would equal or exceed 50% of the market value of the structure before the damage occurred.

12-328-13.44. Substantial Improvement. Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceed 50 percent of the market value of the structure; either 1) before the improvement or repair is started or 2) if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either 1) any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or 2) any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

12-328-13.45. Urban Growth Area. The area that is defined in the City and County Comprehensive Land Use Plan as the Urban Growth Area (UGA) surrounding the City of Lawrence.

12-328-13.46. Variance. A grant of relief by the community from the terms of floodplain management regulation. Flood insurance requirements remain in place for any varied use or structure and cannot be varied the community.

12-328-13.47. Violation. The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required by this ordinance is presumed to be in violation until such time as that documentation is provided.

12-328-13.48. Water Surface Elevation. The height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum where specified) of floods of various magnitudes and frequencies in the floodplain.

12-328-13.49. Zone A. The special flood hazard area inundated by 100-year flood where no base flood elevations have been determined.

12-328-13.50. Zone AE. The special flood hazard area inundated by 100-year flood where the base flood elevations have been determined.

12-328-13.51. Zone AH. The special flood hazard area inundated by 100-year flood depths of 1 to 3 feet (usually areas of ponding); where base flood elevations have been determined.

12-328-13.52. Zone AO. The special flood hazard area inundated by 100-year flood depths of 1 to 3 feet (usually sheet flow on sloping terrain); where average depths have been determined. For areas of alluvial fan flooding velocities have also been determined.

PC Minutes 6/23/10 **DRAFT**

**ITEM NO. 9 TEXT AMENDMENT TO CITY OF LAWRENCE DEVELOPMENT CODE;
CHAPTER 20, ARTICLE 12; FLOODPLAIN OVERLAY DISTRICT (AMB)**

TA-4-6-10: Consider Text Amendments to the City of Lawrence Land Development Code, Chapter 20, Article 12 to reference 2010 effective dates for new Floodplain Overlay District Maps and related regulation changes.

**ITEM NO. 10 TEXT AMENDMENT TO DOUGLAS COUNTY ZONING REGULATIONS;
CHAPTER 12, ARTICLE 28; FLOODPLAIN OVERLAY DISTRICT (AMB)**

TA-4-7-10: Consider Text Amendments to the Zoning Regulations, Chapter 12, Article 28 of the Code of the County of Douglas, Kansas to reference 2010 effective dates for new Floodplain Overlay District Maps and related regulation changes.

STAFF PRESENTATION

Ms. Amy Brown presented items 9 and 10 together.

PUBLIC HEARING

No public comment.

ACTION TAKEN on Item 9

Motioned by Commissioner Harris, seconded by Commissioner Hird, to approve Text Amendment TA-4-6-10 to revise text for Sections 20-1201(a)(3)(i), 20-1201(b)(1), 20-1201(c)(1) and forwarding of the proposed text amendments to Chapter 20, Article 12 to the City Commission for approval and adoption.

Unanimously approved 10-0.

ACTION TAKEN on Item 10

Motioned by Commissioner Harris, seconded by Commissioner Hird, to approve Text Amendment TA-4-7-10 regarding changes to the Zoning Regulations, Chapter 12, Article 28 of the Code of the County of Douglas, Kansas and forwarding on to the Board of County Commissioners.

Unanimously approved 10-0.

PLANNING COMMISSION REPORT

Regular Agenda -- Public Hearing Item

PC Staff Report
06/23/10

ITEM NO. 10 TEXT AMENDMENT TO DOUGLAS COUNTY ZONING REGULATIONS; CHAPTER 12, ARTICLE 28; FLOODPLAIN OVERLAY DISTRICT (AMB)

TA-4-7-10: Consider Text Amendments to the Zoning Regulations, Chapter 12, Article 28 of the Code of the County of Douglas, Kansas to reference 2010 effective dates for new Floodplain Overlay District Maps and related regulation changes. *Initiated by the Planning Commission on 4/28/10.*

RECOMMENDATION: Staff recommends that the Planning Commission forward the proposed text amendment [TA-4-7-10] regarding changes to the Zoning Regulations, Chapter 12, Article 28 of the Code of the County of Douglas, Kansas on to the Board of County Commissioners with a recommendation for approval.

ATTACHMENTS

- Attachment A -- Proposed language for Section 12-328

Reason for Request: The Planning Commission initiated this amendment on April 28, 2010 as a result of the Flood Map Modernization project undertaken by the Federal Emergency Management Administration (FEMA) by which new floodplain maps will be produced for Douglas County. The effective date for those maps needs to be reflected in the Zoning Regulations, as well as other minor sections of the code changed in order to comply with the State of Kansas model floodplain ordinance.

RELEVANT GOLDEN FACTOR:

- Conformance with the Comprehensive Land use Plan is the relevant factor that applies to this request. Amending regulatory tools, one of which is this amendment to the County Zoning Regulations, is an implementation step in Chapter 17 of *Horizon 2020*, the City/County Comprehensive Land Use Plan.

PUBLIC COMMENT RECEIVED PRIOR TO PRINTING

No public comment was received.

Staff has conferred with State Division of Water Resources floodplain program administrators regarding the proposed changes.

OVERVIEW OF PROPOSED AMENDMENT

The Federal Emergency Management Agency (FEMA) recently completed a re-evaluation of flood hazards for Douglas County. Staff has received the preliminary maps and has been in the process of reviewing them. As part of the issuance of new Flood Insurance Rate Maps (FIRMs), staff has set up an informational website with information about the new maps, and conducted outreach activities within the community to raise awareness about the new flood hazard maps. FEMA requires each community to amend their floodplain regulations to include the new effective date of the FIRM maps, which will be August 5, 2010. Section 12-328-3 needs to be changed to reflect the new effective date.

In response to a preliminary review by the Kansas Department of Agriculture, Division of Water Resources (DWR), Staff has been directed to make two additional changes that are necessary for compliance with the County's participation in the National Flood Insurance Program (NFIP), including alignment with the current State Model Floodplain Ordinance.

Previously, language in 12-328-6.02 (b) stated that non-residential structures could be floodproofed below base flood elevation (BFE). The Model Code now changes that standard and it has been included in this amendment. If floodproofing is the method utilized to meet the requirements of this section, non-residential structures must be floodproofed one foot above BFE.

Sections 12-328-6.02 (e), 12-328-8.03 (f), and 12-328-9, needs to be changed to reflect that a *licensed professional engineer* can certify elevation information in addition to a licensed land surveyor.

In addition, a minor typographical error has been corrected in Section 12-328-6.03.

Text to be deleted is shown with ~~strikeout~~ and proposed text is shown in ***bold italic underlined font*** in the Attachment A-- Proposed language for Section 12-328.

Prior to adoption, this proposed language will need to be officially reviewed by the Kansas Department of Agriculture, Division of Water Resources (DWR) to ensure compliance with the County's participation in the National Flood Insurance Program (NFIP), including alignment with the current State Model Floodplain Ordinance.

RESOLUTION NO. 10-_____

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF DOUGLAS COUNTY, ADOPTING TEXT AMENDMENTS TO THE FLOODPLAIN MANAGEMENT REGULATIONS CONTAINED IN THE ZONING REGULATIONS OF DOUGLAS COUNTY, KANSAS, CODIFIED AT CHAPTER 12 OF THE DOUGLAS COUNTY CODE.

WHEREAS, the Legislature of the State of Kansas has in K.S.A. 12-741 *et seq*, has enabled local governmental units to adopt regulations governing zoning and land use of property within their jurisdictional boundaries and, specifically in K.S.A. 12-766, delegated the responsibility to local governmental units to adopt floodplain management regulations designed to protect the health, safety, and general welfare.

WHEREAS, on September 23, 1966, the Board of County Commissioners of Douglas County, Kansas (the "Board") adopted the Douglas County Zoning Resolution which applied to the unincorporated territory of Douglas County, Kansas (the "County").

WHEREAS, on September 11, 1985, by Resolution 85-46, the Board codified such zoning regulations, together with all amendments that had previously been made thereto, which zoning regulations have been subsequently amended in certain respects and such zoning regulations, as previously and subsequently amended, are hereinafter referred to as the "Zoning Regulations."

WHEREAS, on March 30, 2009, by Resolution 09-11, the Board further codified the Zoning Regulations, as previously amended, into Chapter 12 of the Douglas County Code.

WHEREAS, pursuant to the foregoing authority, the Board has previously adopted floodplain management regulations for the unincorporated areas of the County.

WHEREAS, after due and lawful notice and hearing, the Lawrence-Douglas County Planning Commission, on June 23, 2010, recommended certain text amendments to the Zoning Regulations relating to floodplain management.

WHEREAS, the Board has considered the proposed text amendments and adopts this Resolution to formalize its decision amend the Zoning Regulations as set forth herein.

NOW, THEREFORE, the Board of County Commissioners of Douglas County, Kansas does hereby resolve as follows:

1. Amendment to Section 12-328 of the Zoning Regulations. Section 12-328 of the Zoning Regulations is amended and restated as follows:

12-328-1. STATEMENT OF PURPOSE AND INTENT

12-328-1.01. Statement of Purpose.

The management regulations set forth in this Section are the floodplain management regulations for the unincorporated portions of Douglas County. The purpose of these regulations is to protect individuals and property from flood hazards or flooding by providing for the orderly and safe development of the floodplain for the most advantageous uses which are consistent with the health, safety, and welfare of the general public and which are also consistent with sound practices for utilizing those areas required for the conveyance of specified stream flows in the regulatory floodway.

12-328-1.02. Intent.

- a. The intent of these regulations is to avoid additional costs for home owners upon annexation and to minimize losses due to floods or flood waters by provisions designed to:
 - 1) Prohibit the placement of fill, materials, and structures which would obstruct flood flows and decrease the storage capacity of the regulatory floodway unless it can be demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
 - 2) Require structures in the floodplain and public utilities vulnerable to floods be provided with flood protection at the initial construction stage.
 - 3) Protect individuals from the purchase of lands rendered unsuitable for intended uses by their proximity to floodplain.
 - 4) Minimize public expenditures for flood control projects and damage to public improvements within the floodplain.
 - 5) Maintain property values adjacent to the floodplain and minimize flood blight areas.
 - 6) Assure eligibility for property owners in the Federal Flood Insurance Program.
- b. These regulations are designed and intended to be administered in a manner which will:
 - 1) Restrict or prohibit uses dangerous because of water and erosion hazards or which will result in undue increases in erosion, flood heights, or velocities.
 - 2) Control grading (fill or excavation), dredging, and development which may unduly increase the potential for flood damage.
 - 3) Require that uses protect private and public investments by requiring floodproofing.
 - 4) Control alteration of floodplains, stream channels and natural barriers which accommodate or channel floodwaters.
 - 5) Prevent or regulate construction of barriers that unnaturally divert flood

waters or cause increased flood hazards. Construction in floodplains should be directed to the outer limits of the Floodway Fringe before it is allowed to encroach further into the regulatory floodplain.

12-328-2. FLOODPLAIN OVERLAY DISTRICTS

The floodplain overlay districts shall include only those areas designated as floodplain by the Federal Insurance Study or by an approved Hydrologic and Hydraulic Study.

The floodplain overlay districts consist of: the "F-W" floodway overlay district; and, the "F-F" floodway fringe overlay districts.

12-328-3. FLOODPLAIN OVERLAY DISTRICTS MAP

The official floodplain overlay districts map shall be used in conjunction with the official zoning districts map. The official floodplain overlay districts map shall show the boundaries of the "F-W" floodway and the "F-F" floodway fringe overlay districts. These boundaries shall be consistent with the Floodway and Floodway Fringe as identified by the Federal Emergency Management Agency (FEMA) through a scientific and engineering report entitled, "The Flood Insurance Study for the County of Douglas, Kansas, and Incorporated Areas August 5, 2010", with the accompanying Flood Insurance Rate Maps and revisions thereto.

12-328-4. FLOOD INSURANCE

No part of this Section or any regulation therein shall be construed as affecting the eligibility for flood insurance of any structure existing at the time of publication of the Flood Insurance Rate Maps.

12-328-5. FLOODPLAIN DEVELOPMENT WITHIN THE CITY OF LAWRENCE URBAN GROWTH AREA (UGA)

12-328-5.01. Development of Property in the Floodplain Overlay District. Development of land or subdivision of property (including lot splits) within the City of Lawrence Urban Growth Area (UGA) and a floodplain overlay district shall be permitted only where an approved hydrologic and hydraulic study demonstrates that there will be no rise in the base flood elevation and no increase in flood velocities at any point resulting from the proposed development.

- a. Property platted prior to June 1, 2005, may develop and/or re-plat or subdivide (including lot splits) for non-residential uses without conducting a hydrologic and hydraulic study. Such development is still subject to the remaining sections of this Article.
- b. Development of undeveloped property that was platted prior to June 1, 2005 may occur without conducting a hydrologic and hydraulic study until January 1, 2007. Such development is still subject to the remaining sections of this Article. After January 1, 2007 development of the property is subject to all sections contained within this Section.

12-328-5.02. Floodway Restrictions. Any encroachment, including fill, new

construction, substantial improvements, or other development is prohibited within the F-W Overlay District, except for the following structures:

- a. Flood control and stormwater management structures;
- b. Road improvements and repair;
- c. Utility easements/Rights-of Way; and,
- d. Public improvements or public structures for bridging the Floodway.

12-328-5.03. Hydrologic and Hydraulic Study

- a. Hydrologic and hydraulic studies shall comply with the following standards:
 - 1) The study shall be signed and sealed by a professional engineer, licensed in the State of Kansas;
 - 2) The study shall be submitted for approval by the Douglas County Director of Public Works concurrent with the initial submittal of a floodplain development permit application, preliminary plat, development plan or site plan;
 - 3) Hydrologic and hydraulic methods of analysis shall be consistent with those used in the current Flood Insurance Study for Douglas County;
 - 4) The study shall extend an adequate distance upstream and downstream of the proposed development to encompass the hydraulic effects of the proposed development;
 - 5) The study shall determine the water surface elevations of the base flood for the existing stream and for any proposed development. Based on the assumption of full watershed development and other factors, the findings of the hydrologic and hydraulic study may differ from the Flood Insurance Study. At a given location, the higher water surface elevation shall be the base flood elevation for compliance with the provisions of this section;
 - 6) The study shall identify the velocities of the base flood for the existing stream and for any proposed development;
 - 7) The study shall determine the areas of inundation of the base flood for the existing stream and for any proposed development. The area of inundation shall be dimensioned to the property corners for use in revising the floodplain overlay districts on all property within the extent of the study; and,
 - 8) In areas outside Zone AE, the study shall also identify the Floodway for the proposed development.
- b. For a hydrologic and hydraulic study that proposes an alteration of FEMA's designated floodplain or Floodway, a letter of map revision (LOMR) must be obtained before a building permit will be used for any lot containing a Zone A, AE, AH or AO of the current FIRM.

12-328-5.04. Land Disturbance. Land disturbance or removal of vegetation within the floodplain overlay districts shall be minimized to the extent possible. When excavation, grading, removal of vegetation or other modifications to the cross-sectional geometry of the floodplain are proposed in order to meet the requirements set forth in section 12-328-5.01, those modifications shall comply with the following:

- a. Construction plans shall be prepared for the proposed modifications and shall be

submitted for review and approval by the Douglas County Director of Public Works.

- b. As approved by the Douglas County Director of Public Works:
 - 1) Channel lining materials shall be limited to native vegetation, stabilized as necessary to prevent erosion. The use of concrete lining, pipe or other structural materials shall be minimized;
 - 2) Within the area of inundation, all disturbed areas above the channel lining shall be restored with native vegetation, including trees, to promote wildlife habitat; and,
 - 3) Channel designs shall preserve existing low-flow channels to the extent possible.

12-328-6 DEVELOPMENT STANDARDS AND CRITERIA

12-328-6.01. General Standards. Development in areas that are included in the floodplain overlay districts shall be required to meet the following general standards:

- a. No structure, fill, or other uses within the floodway overlay district shall be permitted which will increase the base flood elevation.
- b. Public improvements shall be waterproofed to the base flood elevation. Any space below the base flood elevation shall be watertight with walls substantially impermeable to the passage of water with structural components having the capabilities of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. The interior and content of the structures shall remain substantially dry.
- c. Water lines shall be designed to eliminate infiltration of flood waters into systems.
- d. Sewer lines shall be designed to eliminate infiltration of flood waters into systems and discharge from the systems into the floodwaters.
- e. Residential Construction: New construction or substantial improvements of a residential structure shall be elevated, anchored to prevent flotation, collapse, or lateral movement of the structure and shall be constructed to resist and minimize flood damage. Construction shall be with materials resistant to flood damages, utilizing methods and practices that minimize flood damages, and with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- f. Non-Residential Construction: All new construction and substantial improvements that fully enclose areas below the lowest floor which are usable solely for parking of vehicles, building access or storage in an area other than a basement; and, which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exist of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria; A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves,

- or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- g. Storage of materials or equipment may be allowed if not subject to major damage by floods and firmly anchored to prevent floatation or if readily removable from the area within the time available after the flood warning. Storage of materials that are buoyant, flammable, explosive or potentially injurious to human life at times of flooding shall not be permitted.
 - h. On site waste disposal systems shall be designed to avoid impairment due to flooding.
 - i. All new construction and substantial improvements that fully enclose areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
 - j. Until a Floodway is designated, no new construction, substantial improvements, or other development, including fill, shall be permitted within any unnumbered or numbered A zones, or AE zones on the FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

12-328-6.02. Specific Standards. In addition to these general standards, development shall be required to meet the following specific standards:

- a. Residential Construction. New construction and substantial improvement of residential structures shall have the lowest floor, including basement, elevated: a) a minimum of two feet above the base flood elevation when located within the Urban Growth Area (UGA) of Lawrence, or, b) a minimum of one foot above the base flood elevation when located outside the Urban Growth Area of Lawrence but within the unincorporated area of Douglas County.
- b. Non-Residential Construction. All new construction and substantial improvements of non-residential structures shall have (a) either (i) the lowest floor (including basement) elevated a minimum of one foot above the base flood elevation; or, (ii) together with attendant utility and sanitary facilities, be designed so that below one foot above the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and (b) a registered professional engineer or architect develop and/or review the structural design, specifications and plans for the construction and shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting applicable

- provisions of the Federal Emergency Management Regulations [44FR311177, the Section 60.3 (c)(3)(ii) & Section 60.3 (c)(8)(ii), and amendments thereto.]
- c. Existing Manufactured (Mobile) Home Park – All manufactured homes to be placed in an existing park located in a floodplain overlay district are required to be firmly secured to an adequately anchored foundation system to resist floatation, collapse, or lateral movement, which may include, but is not limited to, the use of over-the-top or fame ties to ground anchors. (This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.)
 - d. Manufactured (mobile) homes to be placed or substantially improved in an expansion to an existing manufactured (mobile) home park where the repair, reconstruction, or improvement of the streets, utilities and pads equals or exceeds 50 percent of the value of the streets, utilities and pads before the repair, reconstruction or improvement has commenced are required to have the manufactured home chassis elevated by reinforced piers or other foundation elements of at least equivalent strength that are no less than thirty-six inches in height above grade and be securely attached to an adequately anchored foundation such that the lowest floor of the manufactured home is elevated at least two feet above the base flood elevation.
 - e. A licensed land surveyor or professional engineer shall certify that the elevation of a proposed structure is above the specified base flood elevation.
 - f. In areas where a base flood elevation has not been provided by the FIS, the county shall obtain, review and reasonably utilize any base flood elevation and Floodway data available from federal, state or other sources until such other data has been provided by FEMA for use and enforcement of this chapter.
 - g. Require that recreational vehicles placed on sites within the identified floodplain on the community's FIRM either 1) be on the site for fewer than 180 consecutive days, 2) be fully licensed and ready for highway use, or 3) meet the permit requirements and the elevation and anchoring requirements for manufactured homes in this ordinance. A recreation vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.
 - h. All proposals for development must include base flood elevation data.
 - i. In Zone AO and AH, adequate drainage paths shall be required around structures on slopes, in order to guide floodwaters around and away from proposed structures.

12-328-6.03. Letter of Map Revision (LOMR). Structures placed on property that has been removed from the floodplain by a LOMR shall have the lowest floor, including basement, elevated above the base flood elevation in compliance with section 12-328-6-02.

12-328-7. ADMINISTRATION AND RECORDS

12-328-7.01. Administration. The Director of Zoning and Codes shall be vested with the administration of these regulations. It shall be his responsibility to review all

requests for floodplain development permits and to enforce the regulations in this Section. Each permit shall be reviewed in consideration with the following:

- a. Satisfying all the requirements of this Section.
- b. Obtaining all the necessary permits from federal, state, or local government agencies prior to approval of the development permit.
- c. The location of the proposed development in relation to the Floodway and the assurance that any encroachment meet the standards in this Section, and K.S.A. 12-766.

12-328-7.02. Records. The Director of Zoning and Codes, as administrator of these regulations, shall record and maintain a record of all development permits issued. Documentation of these permits shall include:

- a. The proposed use, residential or non-residential;
- b. The elevation of the regulatory floodway for the area developed; and,
- c. Certification that the elevation of the lowest floor is above the base flood elevation by the required; one foot in the unincorporated area of the County outside the Lawrence Urban Growth Area or, two feet within the Urban Growth Area of Lawrence.

The Director of Zoning and Codes shall submit a biennial report on the appropriate federal annual report form to the Administrator concerning the community's participation in the Federal Insurance Program.

12-328-8. DEVELOPMENT PERMIT

12-328-8.01. No development shall be made in, on, or over any land designated by this Section and shown on the official floodplain overlay district map as being within the floodway overlay districts without obtaining approval from the Director of Zoning and Codes.

12-328-8.02. Application for a development permit shall be made by the property owner or his certified agent to the Director of Zoning and Codes upon appropriate forms. Such application shall be made at least ten days prior to the approval of a development permit. The application shall be accompanied by a fee of Fifty Dollars; no part shall be returnable to the applicant after review of the permit request has begun. The application fee shall be made payable to the Director of Zoning and Codes.

12-328-8.03. Information required. An application for a development permit shall be accompanied by the following information:

- a. Identification and description of proposed use or development;
- b. Legal description of the property;
- c. Plan of the proposed development or use at a scale of one inch equals fifty feet or larger showing the Floodway and Floodway Fringe as designated by the Federal Insurance Administrator;
- d. Use and type of structures proposed;
- e. The elevation (in relation to mean sea level) of the lowest floor, including

- basements, of all structures or proposed fill;
- f. A statement of the elevation flood proofed by a licensed land surveyor or professional engineer;
 - g. Proposed developments which include alteration of watercourses must:
 - 1) In river or tributary situations, the Director of Zoning and Codes will notify any adjacent community, state coordinating agency for the National Flood Insurance Program, and the Federal Insurance Administration prior to any alteration or relocation of a watercourse.
 - 2) Evidence submitted by the applicant's engineer or architect showing that no adverse impacts will result from the alteration and the flood carrying capacity within the altered or relocated portion of the watercourse is not diminished.
 - h. Any additional data which the Director of Zoning and Codes or County Engineer requests which is pertinent to the issuance of a development permit.

12-328-9. CERTIFICATION OF ELEVATION

Within sixty days after a building permit has been issued, a certification of elevation must be received, approved and recorded at the Director of Zoning & Codes' Office.

The development permit must include certification from a land surveyor or professional engineer (licensed to do business in the State of Kansas) that the lowest floor, including basement, is a minimum of one foot above the base floodplain elevation. The building permit is null and void after said sixty day period if such certification is not provided. Occupancy of the structure shall be illegal prior to the approval of a development permit.

12-328-10. NON-CONFORMING USES AND STRUCTURES IN THE FLOODPLAIN

All non-conforming uses and structures within a floodway or regulatory floodway fringe overlay districts shall be subject to the following requirements in addition to other provisions of the County's Zoning Resolution.

12-328-10.01. No non-conforming use or structure shall be altered, repaired or modified unless a permit is issued under this Section.

12-328-10.02. No permit for the alteration, repair or modification of a non-conforming use in the Floodway Fringe shall be issued unless such alteration, repair or modification includes flood proofing by elevation to or above the base flood elevation. No permits shall be issued for alteration, repair or modification in the Floodway that will obstruct flow or increase the height of the base flood.

12-328-10.03. Uses or adjuncts thereof, which are or become nuisances shall not be entitled to continue as non-conforming uses.

12-328-10.04. The Director of Zoning and Codes, before issuing a development permit for the alteration, repair or modification of a non-conforming use or structure, shall request a decision from the Board of Zoning Appeals in determining the adequacy of the proposed flood proofing measures for the proposed alteration, repair or

modification of the non-conforming use or structure. The Board of Zoning Appeals shall make this determination in accordance with the following specific criteria:

- a. The susceptibility of the structure or use to flood damage.
- b. The availability and expense of alternate floodproofing techniques.
- c. The safety of the flood proofing measures.

12-328-11. AREAS OF SHALLOW FLOODING (ZONE AO AND ZONE AH)

The following provisions apply to areas designated as Zone AO and Zone AH:

12-328-11.01. Zone AO.

- a. All development and substantial-improvements of residential structures, including mobile homes or manufactured homes, shall have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified);
- b. All development and substantial-improvements of any commercial, industrial, or other non-residential structures shall have the lowest floor, including basement, elevated above the highest adjacent grade as least as high as the depth number specified in feet on the community FIRM (at least two feet if no depth number is specified) or together with attendant utilities and sanitary facilities be completely floodproofed to that so that the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
- c. Drainage paths must be provided adequately to guide floodwaters around structures.

12-328-11.02. Zone AH.

- a. The development standards for all areas of special flood hazard where base flood elevation has been provided shall be required as set forth in section 12-328-6 et al; and,
- b. Drainage paths must be provided adequately to guide floodwaters around structures.

12-328-12. AMENDMENTS

The regulations, restrictions, and boundaries set forth in this section may from time to time be amended, supplemented, changed, or repealed to reflect any and all changes in the National Flood Disaster Protection Act of 1973, provided, that prior to the adoption thereof, the Board of County Commissioners shall submit to the chief engineer of the Division of Water Resources of the State Board of Agriculture any ordinance, resolution, regulation or plan that proposes to create or to effect any change in a floodplain zone or district, or that proposes to regulate or restrict the location and use of structures, encroachments, and uses of land within such an area.

The chief engineer may require, pursuant to rules and regulations, each submission hereunder to be accompanied by complete maps, plans, profiles, specifications and

textual matter. The chief engineer shall approve or disapprove any such ordinance, resolution, regulation or plan or changes thereof within 90 days of the date of receipt of all such data required by the chief engineer as specified in rules and regulations adopted thereby.

If the chief engineer fails to approve or disapprove within the 90 day period required by this section, such ordinance, resolution, regulation or plan or change thereof shall be deemed approved. The chief engineer shall provide, in writing, specific reasons for any disapproval.

12-328-13. DEFINITIONS

The following definitions are applicable to only the terms found in this section.

12-328-13.01. Agency. The Federal Emergency Management Agency (FEMA).

12-328-13.02. Areas of Special Flood Hazard. The land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year.

12-328-13.03. Base Flood. The flood having a one percent chance of being equaled or exceeded in any given year.

12-328-13.04. Base Flood Elevation. The water surface elevation of the base flood as determined by the Flood Insurance Study or by an approved Hydrologic and Hydraulic Study, whichever is higher.

12-328-13.05. Community. Any State or area or political subdivision thereof, which has authority to adopt and enforce floodplain management regulations for the areas within its jurisdiction.

12-328-13.06. Development. Any man-made change to improved or unimproved real estate, including but not limited to, building or other structure, mining, fill, dredging, grading, paving, excavation or drilling operations (excluding wells for potable water), or storage of equipment or materials.

12-328-13.07. Eligible Community. A community for which the Administrator has authorized the sale of flood insurance under the National Flood Insurance Program (NFIP).

12-328-13.08. Existing Construction. For the purposes of determining rates, structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. "Existing construction" may also be referred to as "existing structures".

12-328-13.09. Existing Manufactured Home, Park or Subdivision. A manufactured home, park or subdivision for which the construction of facilities for servicing the lot(s) on which the manufactured homes are to be affixed (including, at a minimum, the

installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) are completed before March 2, 1981, the effective date of the adoption of the first County floodplain management regulations.

12-328-13.10. Existing Structures. (See "Existing Construction")

12-328-13.11. Expansion to an Existing Manufactured Home Park or Subdivision. The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, either final site grading or pouring of concrete pads, or the construction of streets.)

12-328-13.12. Flood. A general and temporary condition of partial or complete inundation of normally dry land areas from: 1) the overflow of inland waters; 2) the unusual and rapid accumulation or runoff of surface waters from any source; and 3) the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood, or by some similarly unusual and unforeseeable event which results in flooding as defined above in item 1).

12-328-13.13. Flooding. [See "Flood"].

12-328-13.14. Flood Insurance Rate Map (FIRM). The official map of a community on which both the special flood hazard areas and the risk premium zones have been delineated.

12-328-13.15. Flood Insurance Study (FIS). An examination, evaluation, and determination of flood hazards and, if appropriate, corresponding water surface elevations.

12-328-13.16. Floodplain. The land area inundated by a flood of a given magnitude as determined by the Flood Insurance Study or by an approved Hydrologic and Hydraulic Study.

12-328-13.17. Floodplain Management. The operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness flood control works, and floodplain management regulations.

12-328-13.18. Floodplain Management Regulations. Zoning ordinances, subdivision regulations, building codes, health regulations, special purposes (such as floodplain and grading ordinances) and other applications of police power. The term describes such state or local regulations, in any combination thereof that provide standards for the purpose of flood damage prevention and reduction.

12-328-13.19. Floodproofing. Any combination of structural and nonstructural additions, changes, or adjustments to structures that reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, or structures and their contents.

12-328-13.20. Floodway. The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

12-328-13.21. Floodway Encroachment Lines. The lines marking the limits of Floodways on Federal, State and local floodplain maps.

12-328-13.22. Floodway Fringe. The area outside the Floodway encroachment lines, but still subject to inundation by the regulatory flood.

12-328-13.23. Freeboard. A factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and Floodway conditions, such as bridge openings and the hydrological effect of urbanization of the watershed.

12-328-13.24. Habitable Floor. Any floor usable for living purposes, which include working, sleeping, eating, cooking or recreation, or a combination thereof.

12-328-13.25. Highest Adjacent. The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

12-328-13.26. Historic Structure. Any structure that is: a) Listed individually in the National Register of Historic places (a listing maintained by the Department of Interior) or preliminary determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; b) certified or preliminary determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminary determined by the Secretary to qualify as a registered historic district; c) individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or d) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either: 1) by an approved state program as determined by the Secretary of the Interior or 2) directly by the Secretary of the Interior in states without approved programs.

12-328-13.27. Hydrologic and Hydraulic Study. An engineering study that is done in accordance with section 12-328-5.03 et al.

12-328-13.28. Lowest Floor. The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of

vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render to structure in violation of the applicable non-elevation design requirements of this ordinance.

12-328-13.29. Manufactured Homes [See "Mobile Home"]

12-328-13.30. Market Value. An estimate of what is fair, economic, just and equitable value under normal local market conditions. If market value cannot be determined, the construction estimate can be used.

12-328-13.31. Mean Sea Level. For purposes of the National Flood Insurance Program (NFIP), the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map (FIRM) are reference.

12-328-13.32. Mobile or Manufactured Home. A structure, transportable in one or more sections, that is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The terms "mobile home" or "manufactured home" does not include a "recreational vehicle".

12-328-13.33. New Construction. For the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of the floodplain management regulations adopted by a community and includes any subsequent improvements to such structure.

12-328-13.34. Overlay District. A special zoning district that has been "overlaid" on a base zoning classification to add to or alter some or all of the base district zoning regulations.

12-328-13.35. Participating Community. [See "Eligible Community"]

12-328-13.36. Person. Includes any individual or group of individuals, corporation, partnership, association, or any other entity, including Federal, State, and local governments and agencies.

12-328-13.37. Principally Above Ground. When at least 51 percent of the actual cash value of the structure, less land value, is above ground.

12-328-13.38. Recreational Vehicle. A vehicle which is a) built on a single chassis; b) 400 square feet or less when measured at the largest horizontal projections; c) designed to be self-propelled or permanently able to be towed by a light-duty truck; and d) designed primarily not for use as a permanent dwelling but as temporary living

quarters for recreational, camping, travel, or seasonal use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices, and has no permanently attached additions.

12-328-13.39. Special Flood Hazard Area (SFHA). See ["Area of Special Flood Hazard"].

12-328-13.40. Start of Construction. This includes substantial improvements, and means the date the building permit was issued, provided the actual start of construction, repair reconstruction, placement, or other improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the state of excavation or placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footing, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

12-328-13.41. State Coordinating Agency. The Division of Water Resources, Kansas Department of Agriculture, or other office designated by the governor of the state or by state statute at the request of the Administrator to assist in the implementation of the National Flood Insurance Program (NFIP) in that state.

12-328-13.42. Structure. For the purpose of this section the definition of structure shall mean, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home. "Structure" for insurance purposes, means a walled and roofed building, other than a gas or liquid storage tank that is principal above ground and affixed to a permanent site, as well as a manufactured home on a permanent foundation. For the latter purpose, the term includes a building while in the course of construction, alteration or repair, but does not include building materials or supplies intended for use in such construction, alteration or repair, unless such materials or supplies are within an enclosed building on the premises.

12-328-13.43. Substantial Damage. Damage of any origin sustained by a structure whereby the cost of restoring the structure to it's before damage condition would equal or exceed 50% of the market value of the structure before the damage occurred.

12-328-13.44. Substantial Improvement. Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceed 50 percent of the market value of the structure; either 1) before the improvement or repair is started or 2) if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration

of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either 1) any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or 2) any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

12-328-13.45. Urban Growth Area. The area that is defined in the City and County Comprehensive Land Use Plan as the Urban Growth Area (UGA) surrounding the City of Lawrence.

12-328-13.46. Variance. A grant of relief by the community from the terms of floodplain management regulation. Flood insurance requirements remain in place for any varied use or structure and cannot be varied the community.

12-328-13.47. Violation. The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required by this ordinance is presumed to be in violation until such time as that documentation is provided.

12-328-13.48. Water Surface Elevation. The height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum where specified) of floods of various magnitudes and frequencies in the floodplain.

12-328-13.49. Zone A. The special flood hazard area inundated by 100-year flood where no base flood elevations have been determined.

12-328-13.50. Zone AE. The special flood hazard area inundated by 100-year flood where the base flood elevations have been determined.

12-328-13.51. Zone AH. The special flood hazard area inundated by 100-year flood depths of 1 to 3 feet (usually areas of ponding); where base flood elevations have been determined.

12-328-13.52. Zone AO. The special flood hazard area inundated by 100-year flood depths of 1 to 3 feet (usually sheet flow on sloping terrain); where average depths have been determined. For areas of alluvial fan flooding velocities have also been determined.

2. REPEAL OF PRIOR PROVISIONS. Section 12-328 of the Douglas County Code, as in existence prior to the effective date of this Resolution, is repealed. No other provisions of the Zoning Regulations are amended by this Resolution and all other provisions, as previously amended, are hereby affirmed.

3. Effective Date. This Resolution shall take effect and be in full force from and after its adoption by the Board of County Commissioners and publication once in the official County newspaper.

ADOPTED this _____ day of _____, 2010.

BOARD OF COUNTY COMMISSIONERS
OF DOUGLAS COUNTY, KANSAS

Nancy Thellman, Chair

ATTEST:

Mike Gaughan, Member

Jameson D. Shew, County Clerk

Jim Flory, Member

APPROVED PURSUANT TO K.S.A. 12-766:

Chief Engineer
Division of Water Resources
Kansas State Board of Agriculture