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28-101 APPLICATION OF CONDITIONAL USES

Recognizing that certain uses may be desirable when located in the community, but that these uses may be incompatible with other uses permitted in a district, certain Conditional Uses listed herein, when found to be in the interest of the public health, safety, morals, and general welfare of the community, may be permitted, except as otherwise specified, in any district from which they are prohibited.

Before the location or establishment thereof, or before any change or use of the premises existing at the time of the effective date of these Regulations or permitted as herein provided is made, a development plan in sufficient detail and a statement as to the proposed use of the buildings, structures, and premises shall be submitted to the Rice County Joint Planning Commission as specified in Article 21 of these Regulations. The Rice County Joint Planning Commission shall hold a public hearing following the provisions also outlined in Article 33 of these Regulations and shall review such development plan and statements and shall, after a careful study of the effect that such buildings, structures, or uses will have upon the surrounding property, submit a recommendation to the Governing Body.

Following receipt of the Rice County Joint Planning Commission's recommendation, the Governing Body may, within the specifications herein provided, permit such buildings, structures, or uses where requested, provided that the public health, safety, morals, and general welfare will not be adversely affected, that ample off-street parking facilities will be provided, and that necessary safeguards will be provided for the protection of surrounding property, persons, and neighborhood values. In this regard, the Governing Body may impose reasonable conditions on the approval of a Conditional Use Permit including, but not limited to, those items identified in Article 21 of these Regulations.

28-102 ADDITIONS AND CHANGES TO CONDITIONAL USES

All requests for additions and structural alterations to Conditional Uses previously approved by the Governing Body shall be considered in the same procedure as outlined in Section 28-101 herein.

28-103 CONDITIONAL USES ENUMERATED

The following Conditional Uses may be approved by the Governing Body as provided in this Article:

1. Airports, aviation fields, helio-ports, and/or landing fields, either publicly or privately held.

2. In property zoned "RP-2", apartment houses in any variety of design, including but not limited to garden apartments, townhouses, or condominiums,; provided sufficient on-site and off-site improvements are made to accommodate the density and intensity of the project. Sufficient restrictions, conditions and limitations may be imposed to maintain the residential character of the neighborhood.

3. Bed and breakfast facility.

4. Buildings, structures or premises for public utility services or public service corporations; including but not limited to, water treatment plants, wastewater treatment plants, pump stations, filter beds, water towers, substations, electric generation facilities including commercial wind generation facilities, reservoirs, and utility maintenance shops and yards.

5. Cemeteries, mausoleums or crematories for the disposal of the dead.

6. Churches and church-related facilities including camps, schools, retreat centers and similar facilities; publicly-owned and operated community buildings, art gallery, museums and libraries.

7. Commercial parking lots.

8. Commercial uses in a residential structure located in a residential district within the cities of Alden and Little River when, in the opinion of the City, the use will not be detrimental to the residential neighborhood by reason of the intensity of use. Sufficient restrictions, conditions and limitations may be imposed to maintain the residential character of the neighborhood.

9. Contractor's shop and/or yard, including construction equipment and/or material storage areas.

10. Drive-in theatres.

11. Exposition centers and/or buildings.

12. Explosives, fireworks, ammunition, black powder, or similar material wholesale sales, storage, warehousing, and/or manufacturing.

13. Fairgrounds.

14. Fire stations.

15. Grain elevators and its accessory activities including, but not limited to, bulk fuel storage facilities, ammonia storage, tire repair facilities, etc.

16. Group Boarding Home, Group Day Care Home, Child Care Center, Day Care Center, Detention Center, Family Day Care Home, or Residential Center, provided:

    A. The applicant shall submit, as a part of the application, the plans for the proposed facility giving the type of services to be rendered, the number of persons to be placed in the facility, the number of staff to be employed and other information that will help in determining the extent of services to be provided.

    B. A letter from the Rice County Health Officer shall be submitted by the applicant, giving the current status of the applicant's license to operate the proposed facility and listing all requirements yet to be met in order for the proposed facility to be granted authorization to begin its operation.

    C. Off-street parking at a rate of one space per employee plus two additional spaces for guests.

    D. When operated out of an existing or proposed residential structure, the following standards shall be met:

        1) That only one non-illuminated ground or wall sign not more than 4 square feet in area is used to advertise the home occupation.

        2) Outside play areas shall be fenced.

17. Hospitals, nursing or convalescent homes, congregate care facilities and retirement housing.

18. Hospital or clinic for large or small animals, provided:

    A. That such hospital or clinic and treatment rooms be maintained within a completely enclosed, soundproof building, and that such hospital or clinic be operated in such a way as to produce no objectionable odors outside its walls.

19. Judicial centers, jails, penal or correctional institutions.

20. Keeping of exotic birds or animals.

21. Kennels, either boarding or breeding, provided:

    A. Pens or open kennels shall be located at least 50 feet from the front lot line and at least 30 feet from any side or rear lot line.

B. Open pens shall not be required to be served by sanitary sewer facilities unless soil conditions will not support adequate percolation.

22. Manufactured home parks, subject to the standards established in the Manufactured Home and Recreational Vehicle Code of the Rice County and the cities of Alden and Little River, Kansas.

23. Mortuaries and attendant accessory activities and facilities.

24. Parks and playgrounds.

25. Radio or television broadcasting towers and/or stations, microwave transmitting and/or receiving towers and/or stations, or any tower or other similar structure 50 feet or more in height; whether publicly or privately owned, provided:

A. The location of every tower must be such that it is at least a minimum distance from all property lines equal to ½ the height of the tower. A plot plan shall be submitted with the application.

B. Every tower shall be designed to provide co-location with a minimum of 3 users.

C. No new tower location shall be approved unless the applicant shall show that there is not sufficient or usable space on existing or approved towers in the same service area.

26. Recreational or sports-related activity or facility, whether publicly or privately owned.

27. Recreational vehicle campground, subject to the standards established in the Manufactured Home and Recreational Vehicle Code of the Rice County and the cities of Alden and Little River, Kansas.

28. Schools, preschools or kindergartens, either publicly or privately owned or operated.

29. Show arenas, rodeo arenas and/or similar facilities.

30. Truck stops and/or truck terminals.

31. Wind Energy Conversion Systems-Commercial (WECS-C) provided the following requirements are met.

A. Conditional Use Permit application, as per Article 28 regulations, and Development Plan, as per Article 21 regulations are submitted in full.

B. Construction Requirements:

1. No turbine shall be located closer than 1500 feet to any residence located off the subject property unless a signed and executed waiver form signed by the property owner of the affected residence is supplied to the applicant and included with the CUP application.

2. Individual wind turbines shall be set back from property lines, easements and existing utilities a minimum of 1 times the total turbine height. In order to be closer to the easement, written permission from the easement owner will be required.

3. All turbines shall be mounted on non-guyed or monopole type structures. Any other type of structures must be approved.

4. Individual wind turbine heights, lighting and markings shall comply with FAA requirements.

32. Wind Energy Conversion Systems- Private (WECS-P) provided the following requirements are met.

A. Conditional Use Permit application, as per Article 28 regulations is submitted in full including a scale site plan with sufficient detail to understand the nature and scope of the proposed turbine and the attributes of the specific location including detailing the proposed location and height of the WECS-P, fencing and all existing buildings within two hundred (200) feet of the exterior lot lines. The specific location shall include at a minimum the entire area within 1.5 times the height of the proposed structure. Per the Zoning Administrator, the specific location may include additional area.

B. Construction Requirements:

1. One single turbine shall be permitted for all legal lots of record in unincorporated Rice County up to 80 acres in size. Additional turbines may be allowed for additional acreage at the rate of one turbine for each additional 80 acres. Turbines shall be located at least two rotor diameters away from each other.

2. Individual wind turbines shall be set back from all property lines, easements and existing utilities a minimum of 1 times the total structure height.

3. Individual wind turbine lighting and markings shall comply with FAA requirements.

4. Freestanding turbines may be mounted on either guyed or monopole type structures.

33. Zoos, commercial aquariums, or aviaries.

34. Any other use not specifically listed as a permitted and/or accessory use in any district in these Regulations, or as a prohibited use.

28-104 CONTINUANCE OF A CONDITIONAL USE

A Conditional Use Permit shall be allowed to continue, unless specified otherwise as a condition of authorization, as long as all conditions placed on it are met; however, if that particular use ceases to exist for a period of six months, it will forfeit its Conditional Use Permit and will not be allowed to exist again unless a new application is made, a public hearing held and a new Conditional Use Permit approved.

28-105 ACCESSORY USES

Buildings and structures may be erected and land may be used for purposes which are clearly incidental to, and customarily and commonly associated with the main permitted use of the premises.

28-106 ELIGIBILITY FOR ACCESSORY USE

The determination of the eligibility of a proposed use as an accessory use shall be made by the Zoning Administrator.

28-107 ACCESSORY USES ALLOWED

Accessory uses shall be allowed; provided, said accessory uses shall be limited to those specified herein for the various zoning classifications:

1. In District "AG" Agricultural, the following, or similar accessory uses are allowed:

   A. Open or enclosed storage of farm materials, products or equipment; but not junk.

   B. Any and all farm buildings, including, but not limited to, barns, stables, sheds, toolrooms, shops, bins, tanks and silos.

   C. The use of a manufactured home as an accessory dwelling on land used for agricultural purposes when used by persons employed thereon or as a caretaker, including their families. At no time shall a manufactured home or the land upon which it sits be intended and/or used as a rental unit in the "AG" District.

   D. Fuel storage, tanks and dispensing equipment for fuels used solely for a farming operation. No retail sales of such fuels shall be allowed as an accessory use.

   E. Wholesale or retail sales of agricultural products grown or raised by the farm operator.

   F. A hobby activity operated by the occupant of the premises purely for personal enjoyment, amusement or recreation.

G. Home occupations.

H. Accessory buildings and uses commonly associated with residential activity including, but not limited to, the following:

1) Private garages
2) Guest houses
3) Home barbecue grills
4) Small storage sheds
5) Satellite dish antennas
6) Accessory off-street parking and loading spaces

I. Open hunting on agricultural lands, hunting preserves and hunting lodges used during hunting season shall be considered as accessory uses, regardless of whether there are other structures or improvements on the agricultural lands or not.

2. In District "RR" Rural Residential, "SR" Suburban Residential, "R-1" Single-Family Residential, and "V-1" Village Districts only the following accessory uses are allowed:

A. Accessory buildings and uses commonly associated with residential activity, including, but not limited to, the following:

1) Accessory off-street parking and loading spaces
2) Fences or walls
3) Flag poles
4) Gates or guard houses for subdivisions
5) Guest houses
6) Home barbecue grills
7) Parabolic and satellite dish-type antennas
8) Play equipment
9) Private garages and carports
10) Servants quarters
11) Small storage sheds
12) Solar collectors
13) Swimming pools
14) Television and radio receiving antennas less than 50 feet in height
15) No accessory building or use shall occupy a required front yard (except basketball goals, flag poles and fences as permitted.) In the "R-1" Single-Family Residential District, the total floor area of all accessory buildings shall not exceed 900 square feet.

B. A hobby activity may be operated as an accessory use by the occupant of the premises purely for personal enjoyment, amusement or recreation.

C. In the "SR" Suburban Residential District on lots three (3) acres or larger, agricultural activities may be conducted as accessory activities, such as growing of crops, pasturage of animals, growing of hay, or other similar activities. However, at no time shall such activity be classified or permitted as the primary usage of the land; said usage being as a residential home site in either of the zoning districts.

D. Home occupations such as, but not limited to, the following:

1) Accountant
2) Architect
3) Artist
4) Attorney
5) Author or writer
6) Chiropractor
7) Clergyman
8) Cosmetologist
9) Counselor
10) Engineer
11) Home crafts
12) Insurance Agent
13) Osteopath
14) Photographer
15) Planner
16) Real Estate Agent
17) Seamstress/Dressmaker
18) Secretary/Typist
19) Teaching or instruction provided not more than 3 students are taught at any one time and not more than 12 students per day.

The following conditions and restrictions shall apply to such customary home occupations:

a) That the home occupation shall be carried on wholly within a main building or structure, or within a permitted accessory building or structure, provided that the primary use of the main building or structure is clearly the dwelling used by the person as his or her private residence.

b) That no person other than members of the household living on the premises and two (2) outside persons shall be employed.

c) That only one nonilluminated ground or wall sign not more than 4 square feet in area is used to advertise the home occupation.

d) That no display or storage of equipment or materials outside of a building or structure shall be permitted.

e) That no equipment or machine is used in such activities that is perceptible off the premises by reason of noise, smoke, dust, odor, heat, glare, radiation, electrical interference or vibration.

f) That off-street parking and loading shall be provided and that no generation of substantial volumes of vehicular or pedestrian traffic or parking demand shall be permitted.

3. In District "R-1A" Single-Family Residential, "R-1B" Single-Family Residential, "R-1C" Single-Family Residential, and "RP-2" Planned Medium Density Residential District, only the following accessory uses are allowed:

A. Accessory buildings and uses commonly associated with residential activity, including, but not limited to, the following:

1) Accessory off-street parking and loading spaces
2) Fences or walls
3) Flag poles
4) Gates or guard houses for subdivisions
5) Guest houses
6) Home barbecue grills
7) Parabolic and satellite dish-type antennas
8) Play equipment
9) Private garages and carports
10) Servants quarters
11) Small storage sheds
12) Solar collectors
13) Swimming pools

B. Television and radio receiving antennas less than 50 feet in height

C. No accessory building or use shall occupy a required front yard (except basketball goals, flag poles and fences as permitted.) The total floor area of all accessory buildings shall not exceed 900 square feet.

D. A hobby activity may be operated as an accessory use by the occupant of the premises purely for personal enjoyment, amusement or recreation.

E. Home occupations such as, but not limited to, the following:

1) Accountant
2) Architect
3) Artist
4) Attorney
5) Author or writer
6) Chiropractor
7) Clergyman

8) Cosmetologist
9) Counselor
10) Dentist
11) Engineer
12) Home crafts
13) Insurance Agent
14) Osteopath
15) Photographer
16) Physician
17) Planner
18) Real Estate Agent
19) Salesman
20) Seamstress/Dressmaker
21) Secretary/Typist

F. Teaching or instruction provided not more than 3 students are taught at any one time and not more than 12 students per day

G. The following conditions and restrictions shall apply to such customary home occupations:

1) That the home occupation shall be carried on wholly within a main building or structure, or within a permitted accessory building or structure, provided that the primary use of the main building or structure is clearly the dwelling used by the person as his or her private residence.

2) That no person other than members of the household living on the premises and one (1) outside person shall be employed.

3) That only one non-illuminated ground or wall sign not more than 4 square feet in area is used to advertise the home occupation.

4) That no display or storage of equipment or materials outside of a building or structure shall be permitted.

5) That no equipment or machine is used in such activities that is perceptible off the premises by reason of noise, smoke, dust, odor, heat, glare, radiation, electrical interference or vibration.

6) That off-street parking and loading shall be provided and that no generation of substantial volumes of vehicular or pedestrian traffic or parking demand shall be permitted.

4. In Districts "CP-0" Planned Commercial Office, "CP-1" Planned General Commercial, "CP-2" Planned Highway Service, and "CP-3" Planned Central Business District, only the following accessory uses are allowed:

A. Awnings.

B. Parking areas, loading areas, and/or private garages for motor vehicles.

C. Exterior lighting, including floodlighting.

D. Radio, television, and/or microwave antennas or towers, provided such shall not exceed 50 feet in height.

E. Fences or walls, including security or screen fences or walls.

F. Flagpoles, cooling towers and other similar uses.

G. Food service and vending machines for tenants.

H. Solar collectors.

I. Parabolic and satellite dish-type antennas.

J. Washing and other motor vehicle cleaning shall be permitted as an accessory use in service stations, provided such washing and cleaning shall not utilize more than two car stalls or more than 30 percent of the floor area in any one station, shall be a part of the main building, shall not be equipped to handle anything larger than a one ton truck, and shall not be open for use during hours when the service station is closed. Such washing and cleaning operation shall utilize the same entrance drives as the service station and may use coin-operated or attendant-operated equipment, but not continuous line or conveyor type washing equipment.

K. Material storage yards, in connection with retail sales of products sold on the premises, where storage is incidental to the approved occupancy of a building, provided all products and materials used or stored are in a completely enclosed building or enclosed by a masonry wall, fence or hedge no less than 6 feet in height. Storage of all materials and equipment shall not exceed the height of said wall or fence. Storage of motor vehicles used in connection with the permitted trade or business is permitted within the walls, but not including storage of heavy equipment such as road-building or excavating equipment.

5. In Districts "IP-1" Planned Light Industrial, and "IP-2" Planned Medium Industrial, "IP-3" Planned Heavy/Hazardous Industrial, only the following accessory uses are allowed:

A. Awnings.

B. Parking areas, loading areas and/or private garages for motor vehicles.

C. Exterior lighting, including floodlighting.

D. Fences or walls, including security or screen fences or walls.

E. Loading equipment.

F. Parabolic and satellite dish-type antennas.

G. Radio, television and/or microwave antennas or towers, provided such shall not exceed 50 feet in height.

H. Gate houses.

I. Employee recreation facilities.

28-108 SPECIALTY ACCESSORY USES

The following uses, activities, or items shall be the accessory uses or restrictions allowable:

1. Hotels, Motels, Motor Hotels: The following are accessory uses within a hotel, motel or motor hotel:

   A. Restaurant
   B. Health clubs, spas and exercise rooms
   C. Clubs
   D. Drinking establishments
   E. Banquet rooms
   F. Notion counters
   G. Newspaper and magazine counters
   H. Vending machines
   I. Arcades
   J. Beauty and barber shops
   K. Flower and gift shops
   L. Swimming pools

   Provided all except swimming pools are within the main building and designed to serve the occupants and patrons of the hotel, motel or motor hotel.

2. Hospitals: The following are accessory uses within a hospital:

   A. Residential quarter for staff and employees
   B. Nursing and convalescent quarters
   C. Storage and utility buildings
   D. Food service and vending machines
   E. Laundry and dry cleaning pickup and delivery
   F. Flower and gift shops
   G. Other similar services for hospital personnel, visitors and patients

3. Construction Sites: Construction and hauling trailers may be used as a temporary construction office on the site of a construction project, provided such construction or hauling trailer is removed upon completion of the project.

4. Fences or walls inside the cities of Alden and Little River, only, subject to the following:

   A. Fences or walls may be constructed to a maximum height of eight (8) feet above the average grade subject to the restrictions of this Article. For all fences or walls greater than six (6) feet in height, where a new fence or wall is constructed or an existing fence or wall is being extended, a permit shall be obtained from the City. A fence permit shall also be required for the replacement or reconstruction of 50 percent (50%) or more of the linear feet of the entire existing fence. Any such replacement or reconstruction shall comply with all the provisions of this Article except setbacks. In determining the height of a fence, the material used in the fence posts shall not be considered.

   B. Fences or walls (including retaining walls) in any planned district shall be approved by the Rice County Joint Planning Commission as part of the development plan prior to the issuance of any fence permit.

   C. Retaining walls may be permitted where they are reasonably necessary due to the topography of the lot, where the wall is located at least two (2) feet from any street right-of-way, and where the wall does not extend more than six (6) inches above the ground level of the land being retained.

   D. All fences or walls constructed prior to the adoption of these Regulations which do not meet the standards of this Article may be replaced and maintained resulting in a fence the same size, type and material; provided, however, that no fence shall be replaced or reconstructed in a manner which obstructs the sight distance triangles as defined in this Article.

   E. In all districts within the cities of Alden and Little River, the following restrictions and standards shall apply to all fences and walls:

      1) Location.

         a) Front yard. A fence or wall not more than three (3) feet in height may project into or enclose any required front yard or side yard to a depth from the street line equal to the required depth of the front yard.

         b) Rear yard. A fence or wall may be constructed on the rear property line on all lots whose rear lot lines abut another lot or a designated thoroughfare. However, no fence shall be permitted in any platted easement. In the case of a double frontage lot whose rear yard abuts a collector or local street, a fence or wall

may be constructed no closer than fifteen (15) feet to the rear property line.

c) Side yard. A fence or wall may be constructed on the side property line, except that no fence shall be closer than fifteen (15) feet to any collector or local street right-of-way. In addition, no fence shall be permitted in any platted easement.

d) Corner lot. A fence or wall not more than three (3) feet in height may project into or enclose any required front or side yard along the street frontage of the lot.

2) Design Standards.

a) All fences and walls shall be constructed with a finished side facing outward from the property. The posts and support beams shall be on the inside or shall be designed as an integral part of the finished surface.

b) All fence segments abutting a designated thoroughfare, except on corner lots, shall provide one (1) gate opening per lot to allow access to the area between the fence and the edge of the street for maintenance and mowing.

c) Spikes and Barbed Wire Fences. No person shall place or permit to be placed or remain on any fence or wall, within five (5) feet of any public street or sidewalk or less than six (6) feet above grade, any spikes or sharp pointed cresting, or any barbed wire, or other thing dangerous and liable to snag, tear, cut or otherwise injure anyone coming in contact therewith.

d) Electric Fences. No person shall erect a fence containing uninsulated electric conductors that may be exposed to human contact anywhere within the City.

e) Swimming Pools. Private swimming pools having a water depth of two (2) feet or more shall be separated from the remainder of the yard by a protective fence or other permanent structure at least four (4) feet in height. The protective enclosure shall be maintained by locked gates or entrances when the pool is not tended by a qualified and responsible person.

28-109 ACCESSORY BUILDING OR STRUCTURE USE

No accessory building or structure shall be constructed upon a lot until the construction of the main building or structure has been actually commenced. No accessory building or structure shall be used unless the main building or structure on the lot is also being used. No cellar or

basement shall be used as a dwelling prior to substantial completion of the dwelling of which it is a part.

28-110 PROHIBITED USES

After the effective date of these Regulations:

1. No mobile home, as defined in these Regulations, shall be moved, relocated, or otherwise placed on any property in the jurisdiction of these Regulations, including within any Manufactured Home Park.

2. No manufactured home or mobile home shall be used for any purpose other than as a residential dwelling as permitted within these Regulations. At no time shall a manufactured home or mobile home be permitted to be converted to a storage unit, office or any other such use, except when used as a permitted accessory use in this Article.

3. No mobile home or manufactured home originally built to be a single-wide unit shall be attached or connected to any other mobile home or manufactured home, or to any other structure or building. This shall not prohibit reasonable, aesthetically designed stoops, porches, decks, carports or the like from being built onto or adjacent to an approved manufactured home.

4. No property shall be used as junkyard, sanitary landfill, construction/demolition landfill, industrial landfill, hazardous or toxic waste storage facility, or other similar use or activity, including as an accessory use to another principal use unless such use or activity has been approved by the issuance of a Conditional Use Permit as provided within these Regulations.