HOME RULE RESOLUTION NO. HR-2008-3

A RESOLUTION PROVIDING FOR THE AMENDMENT OF THE ZONING REGULATIONS OF SHAWNEE COUNTY, KANSAS

WHEREAS, the Board of County Commissioners of the County of Shawnee, Kansas desires to maintain effective and efficient regulations governing the use of land throughout the unincorporated area; and

WHEREAS, to provide for the effective administration of the zoning regulations in the unincorporated area, said regulations will need to be amended from time to time; and

WHEREAS, the proposed amendment will modify the manner in which the size and height of accessory buildings is calculated; and, reinforce the intended purpose and function of accessory buildings; and

WHEREAS, the proposed amendment will correct an inherent limitation with respect to the existing regulations and the manner in which the size of accessory buildings is calculated; and resolve a common compliant with regard to the existing restriction; and

WHEREAS, the proposed amendment will further clarify the expressed intent of the existing regulations to limit an accessory building to a use that is incidental and subordinate to the primary use of the property; and

NOW, on this 31st day of March, 2008, the Board of County Commissioners of the County of Shawnee, Kansas, meeting in regular session and intending to exercise its power of home rule legislation pursuant to K.S.A. 19-101a, does hereby resolve as follows:

Section 1. Article XXIX, Accessory Uses and Requirements, Sec. 29.00, Authority, of the Shawnee County Zoning Regulations, is hereby deleted in its entirety.

Section 2. Article XXIX, Accessory Uses and Requirements, of the Shawnee County Zoning Regulations is hereby amended by the addition of the following section:

Sec. 29.00. Purpose.

The purpose of these regulations is to establish the relationship between principal and accessory uses and the criteria for regulating accessory uses.

The purpose of these provisions is to specify the buildings and uses that are permitted as accessory to principal buildings and uses, and to establish the regulations that apply to the permitted accessory buildings and uses. Further, the purpose of these regulations is to:

1. Maintain neighborhood integrity and preserve the existing character of the neighborhood by encouraging compatible land uses.

2. Provide the residents of the County the opportunity to use their property to enhance or fulfill personal objectives as long as the use of the property is not incompatible with the land use or character of the neighborhood.

Section 3. Article XXIX, Accessory Uses and Requirements, of the Shawnee County Zoning Regulations is hereby amended by the addition of the following section:

Sec. 29.01. Authority.

Accessory uses, buildings and land customarily incidental to a permitted use, provisional use or conditional use permit shall be permitted provided they are:

(a) Subordinate to and commonly associated with a principal building or use.

(b) Subordinate in extent and purpose to the principal building or use.

(c) Operated and maintained under the same ownership and are contributory to the comfort, convenience or necessity of the occupants, business or industry in the principal building or use served.

(d) Located on the same building site and/or zoning lot as the principal building or use.

(e) An accessory building shall not be rented or used for any business, profession, trade or occupation, nor shall it be used for any residential living purpose.

Section 4. Article XXIX, Accessory Uses and Requirements, Sec. 29.01, Permitted accessory uses and buildings, of the Shawnee County Zoning Regulations is hereby retained in its entirety and renumbered as Sec. 29.02, Permitted accessory uses and buildings.

Section 5. Article XXIX, Accessory Uses and Requirements, Sec. 29.02, Accessory use and building regulations, of the Shawnee County Zoning Regulations, is hereby deleted in its entirety.

Section 6. Article XXIX, Accessory Uses and Requirements, of the Shawnee County Zoning Regulations, is hereby amended by the addition of the following section:

Sec. 29.03. Accessory use and building regulations.

(a) *Detached accessory uses and buildings:* In all districts, except as otherwise provided, detached accessory uses and buildings shall be subject to the following requirements:

(1) *Agricultural buildings.* Agricultural buildings, used only for agricultural purposes, such as barns, silos, bins, sheds, and farm machinery sheds, shall not be considered accessory buildings or structures. Such buildings are principal agricultural buildings and shall

comply with the district yard requirements. Nonagricultural accessory buildings are only permitted on property in association with an on-site principal building in conjunction with item (2) below.

(2) *Time of construction.* No accessory building shall be constructed or established more than 120 days prior to time of completion of the construction or establishment of the principal building or use to which it is accessory.

(3) *Building permit.* A building permit shall be required for all accessory buildings or structures over 150 square feet in area which shall be attached to or constructed on a permanent foundation.

(4) *Accessory building size limitations.*

a. Maximum Size Limitation. The total cumulative area of all accessory buildings is based on the size of the parcel as noted herein. The total height of an accessory building shall not exceed that set by Sec. 29.04(8) herein. When calculating the cumulative area of all accessory buildings or total building height, fractions of 0.5 or less maybe disregarded and fractions in excess of 0.5 shall be rounded to the next whole number.

Parcel Size (Ac.)	Max. Building Area (Sq. Ft.) ❶	Max. Sidewall Height (Ft.) ❷
≤ 1	1,200	16
> 1 and ≤ 3	3% of total lot area	16
> 3 and ≤ 10	1.5% of total lot area ❸	16
> 10	6,000 ❹	16

❶ Represents the cumulative floor area of all accessory building on a parcel.

❷ All accessory buildings shall be permitted a maximum sidewall height of 16 ft.

❸ Maximum building area is 3,920 square feet for first thee (3) acres and 1.5% per acre (653 sq. ft.) for each additional acre above three (3) acres.

❹ Unlimited square footage provide no individual structure exceeds 6,000 sq. ft.

b. Exception. The Board of Zoning Appeals may authorize a larger maximum building area and/or total building height by exception in accordance with Article XXXIV of these regulations if it can be demonstrated that the area of all accessory buildings will be compatible with the neighborhood in design, location and size; and, there is proportionality between the size of the principal building, parcel, street frontage, and the size of the accessory structure(s).

c. Application to Existing Structures. The maximum size limitations shall not apply in respect to the continued use of an existing detached accessory building(s), nor prevent the restoration of such building(s) by fire, explosion, act of God, or public enemy provided the following conditions are met:

i. The original building(s) was/were in compliance with the regulations existing at the time the original building(s) was/were built;

ii. A variance was granted which allowed for the deviation from the dimensional requirements; and

iii. The building(s) shall comply with the applicable yard requirements at the time of reconstruction unless a variance has been granted.

(5) *Setback from property lines.* Except as otherwise provided, an accessory building shall be separated from lot lines in compliance with the following requirements:

a. Accessory structures shall not be located within a required front yard as established by the zoning regulations for interior and corner lot street frontages. If, in the judgment of the planning director, construction of an accessory building is compatible with the neighborhood, in respect to availability of public sidewalks, right-of-way needs, other nonconforming structures within the block and the location of principal structures within the block, then such construction may occur without regard to the setback. If more restrictive than provided above, setbacks as set forth by plats of subdivision shall apply to any and all accessory structures.

b. An accessory building shall not be located closer than three (3) feet from a side lot line and five (5) feet from a rear lot line.

c. Setback from an alley. When a garage or carport is entered directly from an alley, it shall not be located closer than ten (10) feet from the alley right-of-way line.

(6) *Setback from other buildings.* No portion of an accessory building shall be located closer than six (6) feet to the principal building or another accessory building on the same lot. Provided however, that a roof section may be extended between the principal structure and the accessory structure for the purpose of providing a covered walkway between the structures. Provided further that such connecting structure (roof) shall not be enclosed. In no event shall the construction of a covered walkway be deemed to join the principal and accessory structures into one principal structure.

(7) *Maximum rear yard coverage.* Accessory buildings shall not occupy more than 30 percent of the rear yard area.

(8) *Maximum height.* Accessory buildings and structures shall not exceed a height of 20 feet in residential districts nor the maximum height permitted for a principal building in other districts.

(9) *Reverse corner lot.* On a reverse corner lot in a residential district, and within 15 feet of any adjacent property to the rear in a residential district, no detached accessory building or portion thereof located in a required rear yard shall be closer to the side lot line abutting

the street than a distance equal to the least depth which would be required under this chapter for the front yard on such adjacent property to the rear. Further, in above instance, all such accessory building shall meet the minimum side yard requirements of such adjacent property which coincides with the side lot line or portion thereof of property in any residential district.

(b) *Attached accessory buildings:* In all districts, except as otherwise provided, attached accessory uses and buildings shall be subject to the following requirements:

(1) *Setback from property lines.* Where the accessory building is attached to the principal building, it shall be subject to, and must conform to, all regulations applicable to the principal building. Attached garage and carport entrances on a dwelling fronting on any lot line shall be located not less than 20 feet from such line.

Section 7. Article XXIX, Accessory Uses and Requirements, Sec. 29.03, Fences, of the Shawnee County Zoning Regulations is hereby retained in its entirety and renumbered as Sec. 29.04, Fences.

Publication. This resolution shall take effect upon publication in the official County newspaper as required by law.

STATE OF KANSAS
OFFICIAL SEAL
SHAWNEE COUNTY

BOARD OF COUNTY COMMISSIONERS
SHAWNEE COUNTY, KANSAS

Michele A. Buhler, Chairman

Vic Miller Vice-Chairman

Theodore D. Ensley, Member

ATTEST:

Cynthia A. Beck, County Clerk

Approved as to Legality and Form: Date 3/25/08

ASST. CO. COUNSELOR