

ZONING REGULATIONS, SUBDIVISION REGULATIONS & FLOODPLAIN MANAGEMENT REGULATIONS

for

CITY OF OSAWATOMIE, KANSAS

CITY OF OSAWATOMIE LAND DEVELOPMENT ORDINANCE

Official Copy as Incorporated by Reference by Ordinance No. 3715

Public Hearing by the Osawatome Planning Commission May 29, 2013

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Single Wide Overlay Areas Chapter 6-2.C. – 06/30/2008 Ordinance No. 3645

Signs Chapter 21 – 08/14/2008 Ordinance No. 3650

Accessory Uses & Structures Chapter 18-11.B.7 – 11/12/2009 Ordinance No. 3671

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ARTICLE 1 – TITLE AND INTENT

1. Title: These regulations, including the zoning district maps made a part hereof, shall be known and may be cited and referred to as the “City of Osawatomie Zoning Regulations,” and as “these regulations.”

2. Intent: These regulations, adopted pursuant to the provisions of K.S.A. 12-741, et. seq., are intended to serve the following purposes:
 - A. To promote the health, safety, morals, comfort and general welfare of the City;

 - B. To preserve and protect property values throughout the City;

 - C. To restrict and regulate the height, number of stories, and size of structures; the percentage of lot coverage; the size of yards, courts, and other open spaces; and the density of population;

 - D. To divide the City into zones and districts; and

 - E. To regulate and restrict the location and use of structures and land within each district or zone.

Article 1 - Title and Intent

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ARTICLE 2 – RULES AND DEFINITIONS

1. Rules of Construction and Interpretation:

A. Rules:

- (1) The word “shall” is mandatory.
- (2) The word “may” is permissive.
- (3) The word “person” includes individuals, firms, corporations, associations, governmental bodies and agencies, and all other legal entities.
- (4) The word “Board” means the Board of Zoning Appeals.
- (5) Unless otherwise specified, all distances shall be measured horizontally.
- (6) The abbreviation N/A means not applicable.
- (7) Any word or phrase defined in these regulations shall have the meaning as so defined whenever the word or phrase is used in these regulations, unless such definition is expressly limited in its meaning or scope.

B. Interpretation:

- (1) Minimum Requirements: In their interpretation and application, the provision of these regulations shall be held to be the minimum requirements for the promotion of the public health, safety, morals and welfare.
- (2) Overlapping or Contradictory Regulations: Where the conditions imposed by any provision of these regulations upon the use of land or structures are either more restrictive or less restrictive than comparable conditions imposed by other provision of any other law, ordinance, resolution, rule or regulations of any kind, the regulations that are more restrictive shall govern.
- (3) Private Agreement: These regulations are not intended to abrogate, annul or otherwise interfere with any easement, covenant or any other private agreement of legal relationship; provided, however, that where the provisions of these regulations are more restrictive (or impose higher standards or requirements) than such easements, covenants or other private agreements or legal relationships, the provisions of these regulations shall govern.

Article 2 - Rules and Definition

- (4) **Unlawful Uses:** No structure or use which was not lawfully existing at the time of the adoption of these regulations shall become or be made lawful solely by reason of the adoption of these regulations; and to the extent that, and in any respect that, said unlawful structure or use is in conflict with the requirements of these regulations, said structure or use remains unlawful hereunder.

2. **Definitions:** For the purpose of these regulations, certain terms or words used herein shall be interpreted or defined as follows, unless the context clearly indicates otherwise:

Abandonment – Any structure or use that has ceased to be used for its designed and intended purpose. The factors used in determining whether or not an item has been abandoned, include but are not limited to the following: (1) Present operability and functional utility of the item; (2) the date of last effective use of the item; (3) the condition of disrepair or damage; (4) the last time an effort was made to repair or rehabilitate the item; (5) the status of registration or licensing of the item, if applicable; (6) the age and degree of obsolescence; (7) the cost of rehabilitation or repair of the item when compared to its market value; or (8) the nature of the area and location of the item.

Accessory Structure: A subordinate structure that serves a function customarily incidental to that of the principal structure. Customary accessory structure includes garages, carports, and small storage sheds.

Accessory Use: A subordinate use that serves an incidental use to the main use of the premises. Customary accessory uses include tennis courts, swimming pools, air conditioners, barbecue ovens, and fireplaces.

Adaptive Reuse: An adaptation and reuse of an existing non-residential structure by an office/institutional use that does not depend on patron traffic to the site and that requires no more than a ten percent increase in structure bulk with no decrease in existing lot line setbacks.

Agricultural Use: The use of a tract of land of not less than five (5) acres for the growing of crops, pasturage or nursery, including the structures necessary for carrying out farming operations and the dwellings of those owning or operating the premises, a member of the family thereof, or persons employed thereon, and the family thereof, but such use shall not include feedlots as defined by State statute.

Alley: A dedicated public right-of-way, other than a street, which provides only a secondary means of access to abutting property, the right-of-way of which is twenty (20) feet or less in width.

Alteration: Alteration, as applied to a structure, is a change or rearrangement in the structural parts of an existing structure. Enlargement, whether by extending a side, increasing the height, or moving from one location to another, shall be considered as an alteration.

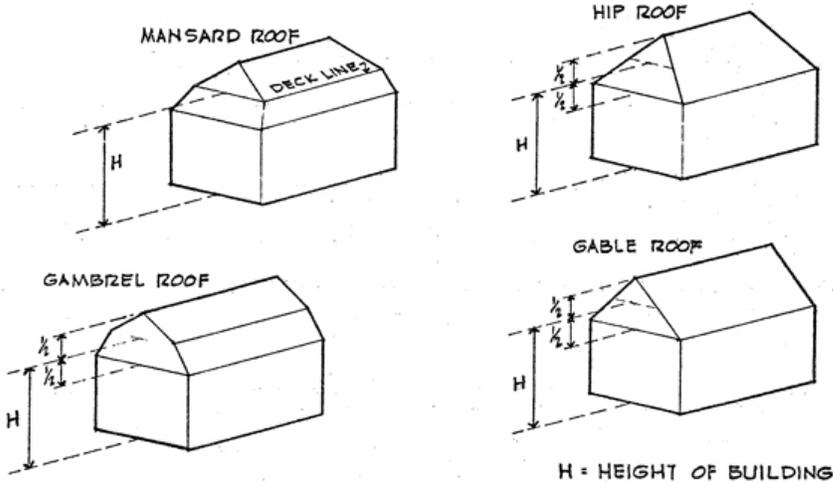
Arcade: Any establishment displaying for public patronage or keeping for operation four or more amusement devices including, but not limited, to pool tables, air hockey tables, “pong” games, mechanical rides for children, electronic games and shooting gallery games.

Basement: That portion of a structure having more than one-half of its height below grade.

Bed and Breakfast: A family home, occupied as a permanent dwelling by the proprietor, in which lodging and meals are provided for time-limited durations to not more than four groups of patrons in a 24-hour period.

Board of Zoning Appeals: That Board which has been created by the Governing Body having jurisdiction and which has the statutory authority to hear and determine appeals and variances to the zoning regulations.

Building Height: As Illustrated below:



City Council: The Governing Body of the City of Osawatomie, Kansas.

City Engineer: The consulting civil engineer appointed by the City Manager and authorized and empowered to function as city engineer.

CITY OF OSAWATOMIE - ZONING REGULATIONS

Article 2 - Rules and Definition

City Manager: The person appointed by the City Council who is authorized and empowered to administer these Regulations.

City of Osawatomie (“the City”): The incorporated City of Osawatomie, Kansas.

Codes Official: The person or persons appointed by the City Manager and authorized and empowered to enforce these regulations.

Common Open Space: An area of land or water or combination thereof planned for passive or active recreation, which does not include areas utilized for streets, alleys, driveways or private roads, off-street parking or loading areas. However, the area of recreational activities such as swimming pools, tennis courts, shuffleboard courts, etc., may be included as common open space.

Condominium: A single dwelling unit under individual ownership within a multiple dwelling unit structure and related common areas and facilities designed to meet the provisions of the Apartment Ownership Act cited in K.S.A. 58-3101 et seq. which governs the ownership, management, taxation, contents of the declaration and other matters related to the sale and operation of such structures and the independent units therein. A multifamily structure with two condominiums shall be considered a two-family dwelling and a structure with more than two condominiums shall be considered a multifamily dwelling.

Day Care Center: A structure or private residence where care, supervision, custody or control is provided for children or adults for less than a 24-hour day, licensed for such care under state law.

Designated Official: An administrative city personnel or consulting personnel to the City designated to administer and enforce these regulations.

Disability: A physical or mental impairment of long or permanent duration which substantially limits one or more of such person's major life activities, a record of having such an impairment, or being regarded as having such an impairment. Such term does not include current, illegal use of or addiction to a controlled substance, as defined in Section 102 of the Controlled Substance Act (21 U.S.C. 802); or any person assigned to a community corrections program or diversion program, on parole from a correctional institution or on probation for a felony offense, or in a state mental institution following a finding of not guilty by reason of insanity.

District: A section or sections of the zoning area for which these regulations governing the use of land, the height of structures, the size of yards and the intensity of use are uniform.

Dog: Any canine species over six (6) months of age.

Drinking Establishment: An establishment in which the primary function is the public sale and serving of alcoholic and/or cereal malt beverages for consumption on the premises, including establishments in which alcoholic and cereal malt beverages are served only to members and their guests.

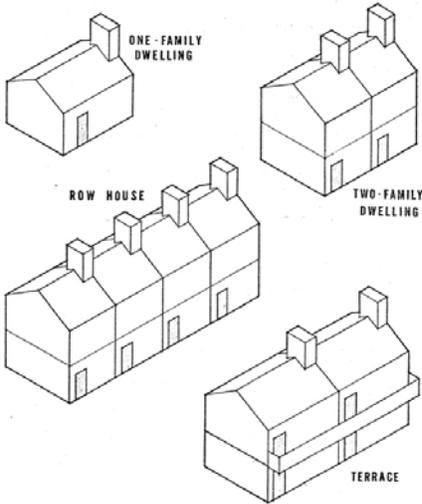
Dwelling: A structure or portion thereof, not including manufactured homes, which is designed and used exclusively for residential purposes.

Dwelling, Single-Family: A residential structure having accommodations for and occupied exclusively by one family.

Dwelling, Two-Family (Terrace Units): A residential structure having accommodations for and occupied exclusively by two families, independently, with or without separate utilities.

Dwelling, Multifamily: A residential structure having accommodations for and occupied exclusively by more than two families, independently.

Dwelling, Attached (Row House): A residential dwelling joined at least one other dwelling at one or more sides by a party wall or walls, and which may include walls of an attached garage. Separate ownership of attached dwelling units known as common lot line housing or "twin homes" shall be accompanied by a recorded lot split unless already platted into individual lots. All utilities and facilities must be independent of each other, unless provided by an association of townhouse or condominium owners under K.S.A. 58-3701 et seq. or 58-3101 et seq. respectively and platted as common ownership.



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Easement: A permanent or temporary grant of right by a landowner to the public, a corporation or other persons, of the use of a portion of a lot or tract of land for specified purposes where title to said portion of the lot or tract of land remains with the landowner.

Family: One or more persons related by blood, marriage, or adoption, living together as a single housekeeping unit; or a group of not more than four (4) unrelated persons living together as a single housekeeping unit. A family shall under no circumstances be construed as a boarding house, lodging house, hotel, motel or commune.

Fence: A protective, confining or decorative barrier separate from any structure and not including any living plant material.

Floor Area: For Computing Off-Street Parking Requirements: Shall mean the gross floor area of the structure measured from the exterior faces of the exterior walls or from the centerline of walls separating two structures and shall include the habitable floor area by building code of the following:

1. The basement floor area.
2. The area of each floor of the structure.
3. The attic space having headroom of seven (7) feet or more.

Foster Home: A dwelling or structure in which more than twelve (12) hour care is provided to no more than five (5) children, one or more of which are unrelated to the foster parents. Foster homes shall be permitted in all residences, the same as a family.

Frontage: The length of the property abutting on one side of a street measured along the dividing line between the property and the street.

Gasoline Service Station: A service station shall consist of a structure or group of structures and surfaced area where automotive vehicles may be refueled and serviced. Self-service pumps without structures shall also be included. Such service shall not include tire recapping, body repairs, or major overhaul.

Governing Body: The City Council of the City of Osawatomie, Kansas.

Group Home: Any dwelling occupied by not more than ten (10) persons, including eight (8) or fewer persons with a disability, as defined in these regulations, who need not be related by blood or marriage and not to exceed two (2) staff residents who need not be related by blood or marriage to each other or to the residents of the home, and which is licensed by the Department of Social and Rehabilitation Services or the Department of Health and Environment.

Home Occupation: A business, profession, service or trade conducted for gain or support within a residential structure.

Hotel, Motel, or Tourist Court: A structure which contains rooms furnished for the purposes of providing lodging, which may or may not also provide meals, entertainment or various other personal services to transient guests, and which is kept, used, maintained, advertised or held out to the public as a place where sleeping accommodations are sought for pay or compensation by transient guests for periods of not more than 28 consecutive days.

Kennel-Boarding: Any place, area, or structure where dogs are boarded, housed, cared for, fed, or trained by other than the owner.

Kennel-Breeding: Any place, area, or structure where more than three (3) dogs are kept for purposes of breeding, raising, or as pets.

Livestock: Any horse, cow, sheep, goat, pig or domestic fowl, as regulated by the animal control ordinance.

Lodging or Boarding House: A structure that meets the definition of a "Hotel", except that such a house shall contain no more than two bedrooms for accommodation of guests.

Lot, Corner: A lot abutting upon two or more streets at their intersection.

Lot, Depth of: The mean horizontal distance between the front and the rear lot lines.

Lot, Double Frontage: A lot having a frontage on two nonintersecting streets, as distinguished from a corner lot.

Lot, Zoning: A parcel or tract of land used, developed, or built upon as a unit under single ownership or control. Said parcel or tract may consist of one or more lots of record, one or more portions of a lot or lots of record, or any combination thereof; and shall be contiguous parcels.

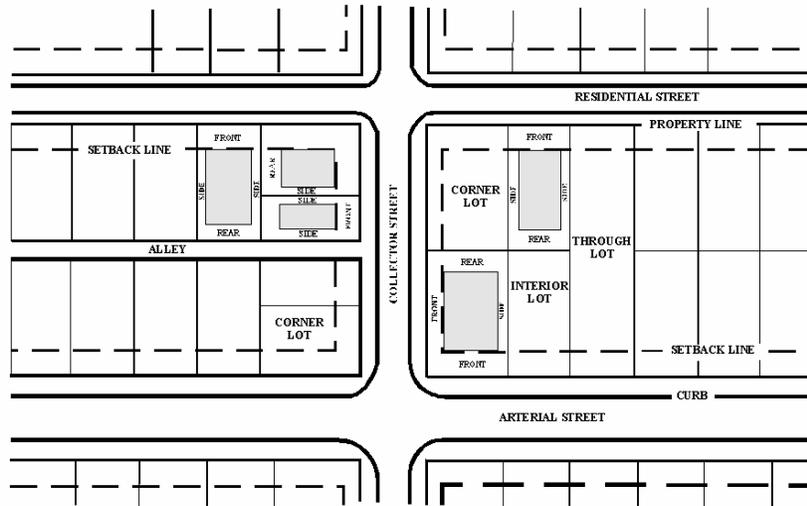
Lot Coverage: That portion of the net site area which is covered by the ground floor of any structure, parking lots, and private streets and drives. Pools, tennis courts, sidewalks and plazas are not counted toward lot coverage.

Lot of Record: A lot which is a part of a subdivision, the plat of which has been recorded in the office of the Register of Deeds; or a lot described by metes and bounds, the description of which has been

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recorded in the office of the Register of Deeds prior to the adoption of the various zoning regulations for the City as set out in Article 4 - General Provisions.



Manufactured Home: A transportable structure designed for year-round residential use, built no less than ten (10) years prior to its placement in the City and subject to the Federal Manufactured Home Construction and Safety Standards established pursuant to 42 U.S.C. § 5403, and constructed on or after June 15, 1976.

Manufactured Home-Residential Design: A manufactured home that satisfies the following additional criteria:

1. The manufactured home shall have minimum dimensions of 22 feet in width and 40 feet in length;
2. The pitch of the roof of the manufactured home shall have a minimum vertical rise of four feet for each 12 feet of horizontal run and the roof finished with a type of shingle that is commonly used in standard residential construction in the City;
3. All roof structures shall provide an eave projection of no less than 12 inches, exclusive of any guttering;
4. The exterior siding shall consist of vinyl or metal horizontal lap siding (whose reflectivity does not exceed that of low luster white paint), wood, or hardboard, comparable in composition,

appearance and durability to the exterior siding commonly used in standard residential construction in the City;

5. The manufactured home shall be set up in accordance with the recommended installation procedures of the manufacturer and the standards set by the National Conference of States on Building Codes and Standards and published in "Manufactured Home Installations, 1987" (NCS BCS A225.1), and a continuous, permanent masonry foundation or masonry curtain wall, or poured concrete wall, un-pierced except for required ventilation and access, is installed under the perimeter of the Residential-Design Manufactured Home;
6. Stairs, porches, entrance platforms, ramps and other means of entrance and exit to and from the home shall be installed or constructed in accordance with the standards set by building codes and attached firmly to the primary structure and anchored securely to the ground; and
7. A Residential Design-Manufactured Home, when installed, shall have substantially the appearance of an on-site, conventionally built, single-family dwelling.

Medical Clinic: Any structure designed for use by one or more persons lawfully engaged in the diagnosis, care and treatment of physical or mental diseases or ailments of human beings; including, but not limited to, doctors of medicine, dentists, chiropractors, osteopaths, optometrists, podiatrists, and in which no patients are lodged overnight, but which may include a pharmacy.

Mines and Quarries: Excavations, including sand or gravel pits, for the purpose of removing, screening, crushing, washing, or storage of ore, soil, stone, gravel or similar materials for the purpose of resale of the mined material. Landfill accessory uses to such activities shall not be included as part of the definition of a mine or quarry.

Mobile Home: A transportable structure larger than 320 square feet in floor area, designed to be used as a year-round residential dwelling, and built **prior to** the enactment of the Federal Mobile Home Construction and Safety Act of 1974, which became effective for all manufactured home construction on June 15, 1976.

Modular Home: A manufactured residential structure built to a nationally-recognized and accepted construction standard published by the International Conference of Building Officials (ICBO) and the unit is inspected and certified at the factory that it meets said standard. A modular home shall have exterior structure materials and appearance similar to the customary single-family structures in the neighborhood and shall be permanently situated on a concrete foundation.

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Nonconformities: A lawful condition of a structure or land that does not conform to the regulations of the district in which it is located. This term shall include but not be limited to failure to conform to regulations governing use, height, area, coverage, or off-street parking and is defined further below and in Article 9 of these regulations.

Nonconforming Lots: A lot whose area, dimensions or location was lawful prior to the adoption, revision or amendment of this ordinance, but which would be prohibited or further restricted under the terms of this ordinance.

Nonconforming Uses. A lawful occupation of a structure or land by a use that does not conform to the regulations of the district in which it is located.

Nonconforming Structures. A structure that does not comply with the lot size requirements or bulk regulations applicable to new structures in the zoning district in which it is located.

Nonconforming Situations. Nonconforming practices that are in existence at the time of the adoption of these regulations.

Nursing Homes or Convalescent Homes: An institution or agency licensed by the State for the reception, board, care, or treatment of three (3) or more unrelated individuals, but not including facilities for the care and treatment of mental illness, alcoholism, or narcotics addiction.

Planning Commission: The Planning Commission having planning and zoning advisory authority over the City corporate limits, appointed by the City.

Public Utility: Any business which furnishes the general public (a) telephone service, (b) telegraph service, (c) electricity, (d) natural gas, (e) water and sewer, or (f) cable television.

Recreational Vehicle: See Travel Trailer.

Restaurant—Limited Service: An establishment whose primary purpose is the sale, dispensing or service of food, refreshments or beverages; however, not in automobiles.

Restaurant--Full Service: A restaurant whose operation extends to service and/or consumption of food in automobiles.

Right-of-Way, Public: A strip of land occupied or intended to be occupied by a street, alley, crosswalk, railroad, road, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer, or for another special use and dedicated to the public.

Salvage Yard: A place where junk, waste, discarded or salvaged materials are bought, sold, exchanged, stored, baled, packed, disassembled, handled or prepared for recycling, which shall include auto wrecking yards, but shall not include retail secondhand furniture stores or the purchase and storage of used or salvaged materials as a part of a manufacturing operation.

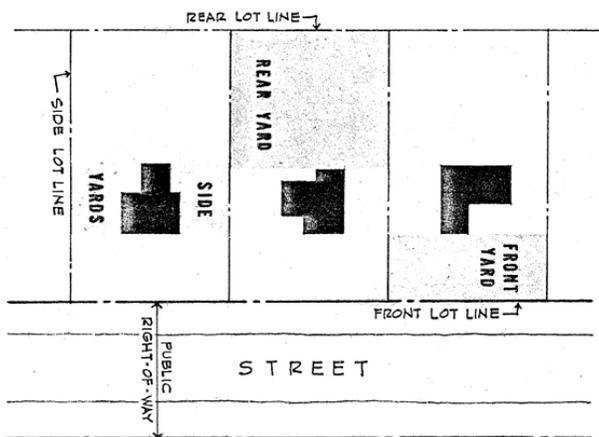
Sanitary Landfill: A lot or parcel of land used primarily for the disposal and burial of garbage, sewage, trash, refuse, junk, discarded machinery or motor vehicles or parts thereof, or other waste.

Setback, Yard: The required space on a lot or parcel that must remain open, unoccupied and unobstructed by structures from the ground upward; as distinct from an “established yards” (see Figure 3) which is the existing open space in front or beside or in back of the principal structure on a lot or parcel.

Front Yard Setback: A yard extending across the full width of the lot, the depth of which is the least distance between the street right-of-way and the structure setback line.

Rear Yard Setback: A yard extending across the full width of the lot, the depth of which is the least distance between the rear lot line and the rear setback line.

Side Yard Setback: A yard extending from the front yard, or front lot line where no front yard is required, to the rear yard.



Sexually Oriented Business: Any business determined by the City to require a business license for providing adult entertainment, as defined and regulated in the City’s business regulations, and as additionally regulated in these regulations.

Sign: Any device which shall display or include any letter, word, model, banner, flag, pennant, insignia, device, or representation used as, or which is in the nature of, an advertisement or

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announcement which directs attention to an object, product, place, activity, person, institution, organization, or business, but shall not include any display of official notice or official flag.

Sight Triangle: An area at a street intersection in which nothing shall be erected, placed, planted, or allowed to grow in such a manner as to materially impede vision between a height of 2-1/2 feet and 8 feet above the grades of the outside edge of the street surface of the intersecting streets, measured from the point of intersection of the centerline of the streets, 90 feet in each direction along the centerline of the streets. The City Engineer shall establish sight distance triangles based upon standards in the policy manual published by the American Association of State Highway and Transportation Officials (AASHTO).

Special Use Permit: A special use permit is a permit issued upon recommendation by the Planning and Zoning Department and approval by the City Council. A special use permit provides permission under special conditions to make certain special uses of land in certain zoning districts as stipulated in each of the district zoning regulations.

Street: A right-of-way, dedicated to the public use, which provides vehicular and pedestrian access to adjacent properties.

Street Line: A dividing line between a lot, tract, or parcel of land and the contiguous street.

Street Network:

1. **Local Street** - provides access to properties.
2. **Collectors** - conducts traffic from local streets to arterials, with access to properties.
3. **Arterials** - carries traffic out of and through the area, subject to certain control of entrances, exits and curb cuts.

Structure: Anything constructed or erected, the use of which requires permanent location on the ground or attachment to something having a permanent location on the ground, but not including fences or public items such as utility poles, street light fixtures, and street signs.

Structural Alterations: Any change in the supporting members of a structure, such as bearing walls or partitions, columns, beams, or girders, or any complete rebuilding of the roof or the exterior walls. For the purpose of this regulation, the following shall not be considered a structural alteration:

1. Attachment of a new front facade where structural supports are not changed.
2. Addition of fire escapes where structural supports are not changed.

3. New windows where lintels and support walls are not materially changed.
4. Repair or replacement of non-structural members.

Structure Height: The vertical dimension measured from the average elevation of the finished lot grade at the front of the structure to the highest point of ceiling of the top story in the case of a flat roof; to the deck line of a mansard roof; and to the average height between the plate and ridge of a gable, hip, or gambrel roof.

Surface Improvement: The street or off-street parking improvement required by these regulations, by type of material, designed to City engineering standards:

1. Gravel Improvement: An all weather surface improved with gravel.
2. Hard Surface Improvement: An all weather surface improved with asphalt, concrete, asphaltic concrete or similar durable material.
3. Soft Surface Improvements: An all weather surface improved with crushed limestone or similar dust-free and durable material.

Townhouse: A dwelling unit located in a group of three or more attached townhouse dwelling units with no other dwelling unit located above or below another and with each dwelling unit having at least one interior common wall and at least two private exterior entrances.

Townhouse Site: A townhouse, the total land area beneath the townhouse and the facilities associated with the townhouse.

Townhouse Structure: A grouping of three or more townhouses.

Table of Equivalent Districts: A table in Article 3 of these regulations that establishes Equivalent Zoning Districts to similar Zoning Districts adopted under prior regulations.

Table of Lesser Districts: A table in Article 13 of these regulations that permits the Planning Commission when determining when republication of an application for rezoning is required, by designating Lesser Zoning District classifications that are lesser changes authorized within the zoning classifications published for the public hearing.

Travel Trailer or Recreational Vehicle: A vehicular-type unit primarily designed as temporary living quarters for recreational, camping or travel use, which either has its own motive power or is mounted on or drawn by another vehicle. Examples are travel trailers, camping trailers, truck campers, and motor homes. Manufactured homes and modular homes shall not be considered trailers or recreational vehicles.

CITY OF OSAWATOMIE - ZONING REGULATIONS

Article 2 - Rules and Definition

Zone or District: A section of the Zoning Area for which uniform regulations governing the use, height, area, size, and intensity of use of structures, land, and open space are herein established.

Zoning Area: The area to be zoned as set out on the Official Zoning Map filed of record.

Zoning Regulations: The term “zoning regulations” or “this or these regulations” shall mean the requirements stipulated in the regulations herewith attached, and shall mean the lawfully adopted zoning ordinances of the City of Osawatomie.

ARTICLE 3 – GENERAL PROVISIONS

1. Jurisdictional Area: The provisions of these regulations shall apply to all structures and land in the incorporated area of the City of Osawatome, Kansas. The jurisdictional area shall be shown on the Official Zoning District Map.

2. Establishment of Districts: The jurisdictional area is hereby divided into nine zoning districts which are designated as follows:
 - “AG” Agricultural District
 - “R-1” Residential - Low Density District
 - “R-2” Residential - Medium Density District
 - “R-3” Residential - High Density District
 - “MH” Manufactured Home Park District
 - “C-B” Central Business District
 - “G-B” General Business District
 - “I-1” Light Industrial District
 - “I-2” Heavy Industrial District
 - “POD” Planned Overlay District

3. Table of Equivalent Districts: The Zoning Districts herein are hereby equivalent to similar Zoning Districts adopted under prior regulations as follows:

TABLE OF EQUIVALENT ZONING DISTRICTS	
Zoning District	Prior Equivalent Zoning District(s)
“AG” Agricultural	“A-1” Agricultural District
“R-1” Residential - Low Density	Same
“R-2” Residential - Medium Density	Same
“R-3” Residential - High Density	Same
“R-4” Manufactured Home Park	Mobile Home Park
“C-B” Central Business	“C-1” Core Business “C-2” Perimeter Commercial
“G-B” General Business	“C-3” Highway Commercial
“I-1” Light Industrial	“BP” Business Park “M-1 Light Industrial
“I-2” Heavy Industrial	“M-2” Heavy Industrial
“POD” Planned Overlay District *	None Prior
(Airport Height & Hazard Overlay, by reference)	None Prior
* Permitted as overlay district with an underlying district.	

CITY OF OSAWATOMIE - ZONING REGULATIONS

Article 3 - General Provisions

4. Zoning Districts Map: The boundaries of the districts are shown on the Official Zoning District Map, which is filed in the office of the City Clerk. Each of the said zoning maps, with all notations, references, and other information shown thereon, is as much a part of these zoning regulations as if such notations, references, and other information were specifically set forth herein. Such map shall be marked, "Official Copy of the City of Osawatomie, Kansas Zoning Districts Map."

5. Rules Where Uncertainty May Arise: Where uncertainty exists with respect to the boundaries of the various districts as shown on the Official Zoning Districts Map, incorporated herein, the following rules apply:
 - A. The district boundaries are the centerlines of streets, alleys, waterways, and railroad rights-of-way, unless otherwise indicated; and where the designation of a boundary line on the zoning map coincides with the location of a street, alley, waterway, or railroad right-of-way, the centerline of such street, alley, waterway or railroad right-of-way shall be construed to be the boundary line of such district.

 - B. Where the district boundaries do not coincide with the location of streets, waterways, or railroad rights-of-way but do coincide with lot lines, such lot lines shall be construed to be the boundary of such district.

 - C. Where none of the above rules apply, the district boundaries shall be determined by the use of the scale shown on the zoning map.

4. Exemptions: The following structures and uses shall be exempt from the provisions of these regulations:
 - A. Poles, wires, cables, conduits, vaults, laterals, pipes, mains, valves, or other similar equipment for the distribution to consumers of telephone or other communications, electricity, gas, or water, or the collection of sewage or surface water operated or maintained by a public utility, but not including substations located on or above the surface of the ground.

 - B. Railroad tracks, signals, bridges, and similar facilities and equipment located on a railroad right-of-way, and maintenance and repair work on such facilities and equipment.

 - C. Agriculture as defined by these regulations. In the event that any structure or land ceases to be used only for agriculture, then such structure or land shall be subject to the applicable regulations of these regulations.

 - D. Retaining walls on public property.

- E. Public buildings, structures, facilities and signs erected by the City of Osawatomie, Miami County, the State of Kansas or the United States of America for the general use of the public.
 - F. Development Procedures and Zoning District Regulations that have been approved by the City of Osawatomie in an annexation agreement prior to the date of adoption of these regulations shall be exempt from the requirements of these regulations.
5. Applications of Regulations: No structure or land shall hereafter be used or occupied, and no structure or part thereof shall hereafter be erected, constructed, reconstructed, moved, or structurally altered except in conformity with these regulations.
6. Number of Structures and Uses on a Lot:
- A. One principal structure and use, only, may be located on a lot in conformance to requirements of the district in which the lot is located for:
 - (1) single-family detached dwellings,
 - (2) attached dwellings other than condominiums and townhouses,
 - (3) two-family dwellings, and
 - (4) manufactured home units.
 - B. More than one principal structure and use may be located on a lot in common ownership for multifamily, commercial and industrial uses if in conformance to all requirements of the district in which the lot is located.
 - C. Structures developed as condominiums or townhouses, and manufactured homes in manufactured home parks, may occupy a common lot subject to other relevant provisions of these regulations; and, for condominiums and townhouses, the contents of the declaration as required by K.S.A. 58-3111 shall also include a provision for the City to maintain the common areas and facilities in order to avoid having them become a public nuisance, provided that, the costs for such maintenance shall be assessed against the condominium units and shall become a tax lien thereon. The Zoning Administrator must be satisfied that such a provision is included in the declaration before an occupancy certificate may be approved.
7. Annexed Land: All land which may hereinafter be annexed to the City of Osawatomie shall remain un-zoned until a public hearing has been held in reference to the annexed land, an appropriate zoning

CITY OF OSAWATOMIE - ZONING REGULATIONS

Article 3 - General Provisions

classification has been recommended by the Planning Commission, and an ordinance passed by the Governing Body specifying the zoning classification.

8. Severability: It is hereby declared to be the intention of the City that the several provisions of these regulations are separable, in accordance with the following rules:
 - A. If any court of competent jurisdiction shall adjudge any provision of these regulations to be invalid, such judgment shall not affect any other provisions of these regulations.
 - B. If any court of competent jurisdiction shall adjudge invalid the application of any provision of these regulations to a particular property or structure, such judgment shall not affect the application of said provisions to any other property or structure.
9. Reservations and Repeals: Upon the adoption of these regulations by the City Council, Ordinance #3576 establishing zoning regulations in the City of Osawatomie, and all amending zoning ordinances, shall be repealed.
10. Vested Rights:
 - A. For the purpose of single-family residential development in the “AG”, “R-1”, “R-2”, or “R-3” districts, development rights for land shall vest upon recording of the final plat for such land. If construction has not begun within five years of recording the plat, the development rights shall expire unless an extension is granted.
 - B. For all non-single-family development, development rights for land shall vest upon the recording of a final plat or approval of the site plan or specific construction documents for such land. If all permits required for such development have not been issued and the start of construction and the completion of substantial amounts of work under the validly issued permits has not begun within one year of approval of the site plan, the development rights shall expire unless an extension is granted.
 - C. The Planning Commission may for good cause as presented by the applicant grant a single extension of vested rights. Vested rights for single-family development shall not be extended for more than one year. For all non-single-family development, an extension of not more than 6 months may be granted. Applicants seeking an extension shall submit a statement in writing, justifying the extension. In considering an extension, the Planning Commission shall consider the following factors, as well as other relevant considerations:
 - (1) Undue or unnecessary hardship placed upon the property owner;
 - (2) The extent to which the current regulations would hinder to complete development;

- (3) Extent to which the property can be made to conform with current regulations; and
- (4) Conformance with the general spirit and intent of the zoning and subdivision regulations.

D. Nothing in this subsection shall be construed to exempt development from the provisions of Zoning and Subdivision Regulations except to the extent that the construction or development is expressly shown on the approved final plat or site plan. For example, the right to complete a building in accordance with previously-approved site plans shall not include the right to erect signs or make other site improvements in accordance with such plan unless such signs or improvements were expressly shown on the plans and cannot, as shown, be revised to conform to the provisions of the Zoning Regulations as amended.

11. Public and private improvements shall be subject to review and approval by the City Engineer.

Article 3 - General Provisions

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ARTICLE 4 – DISTRICT REGULATIONS

“AG” AGRICULTURAL DISTRICT

Intent: It is the intent of this district to provide for animal husbandry and related agricultural uses; and preserve and protect agricultural resources.

1. Permitted Uses: Generally, farms, non-commercial animal husbandry uses, single-family residences and related public and semi-public uses are permitted. For a general listing of permitted and conditionally permitted uses by land use groupings, see Appendix “A” of these regulations. The permitted uses will be determined based on compatibility with other uses permitted in the district and with listed groupings in the Appendix “A”.
2. Special Uses: For a general listing of special uses, see Appendix “A”.
3. Intensity of Use Regulations: Except as hereinafter provided, all dwellings hereafter erected, enlarged, or reconstructed shall be located upon lots containing the following areas:
 - A. Minimum lot area: Five (5) acres for all uses.
 - B. Minimum lot width: 300 feet.
4. Height Regulations: No structure shall exceed 35 feet in height, except that public and semi-public structures, public service and institutional structures, hospitals, schools, and religious institutional structures are permitted two feet of additional height for each one foot of additional structure setback.
5. Yard Regulations: Except as modified by the provisions of Article 5, minimum yard sizes shall be as follows:
 - A. Front Yard: 50 feet.
 - B. Side Yard: 25 feet.
 - C. Rear Yard: 75 feet.
6. Use Limitations: Non-agricultural development in the “AG” District shall be subject to site plan review requirements and procedures.

Article 4 - District Regulations

“R-1” RESIDENTIAL - LOW DENSITY DISTRICT

1. Intent: The intent of this district is to provide for low density residential development including those uses that reinforce residential neighborhoods.
2. Permitted Uses: Generally, single-family dwellings, manufactured homes, and related public and semi-public uses are permitted. For a general listing of permitted and conditionally permitted uses by Land Based Classification System (LBCS) groupings, see Appendix “A” of these regulations. The permitted uses will be determined based on compatibility with other uses permitted in the district and with listed LBCS groupings in the Appendix “A”.
3. Special Uses: For a general listing of special uses, see Appendix “A”.
4. Intensity of Use Regulations:
 - A. Minimum Lot Area: 9,000 square feet.
 - B. Minimum Lot Width: 75 feet.
5. Height Regulations: Maximum Structure Height: 35 feet.
6. Yard Regulations: Except as modified by the provisions of Article 5, minimum yard sizes shall be as follows:
 - A. Front Yard: 25 feet.
 - B. Side Yard: Ten percent (10%) of the lot width, or 7 feet, whichever is greater.
 - C. Rear Yard: 15 feet.
7. Use Limitations: See supplementary district regulations.

“R-2” RESIDENTIAL - MEDIUM DENSITY DISTRICT

1. Intent: The intent of this district is to provide for moderate density residential development, including two-family and higher density single-family dwellings, in a manner that will encourage a strong residential neighborhood that provides a variety of housing types, preserve natural features within the community including existing high-quality vegetation and water features, promotes active and passive recreation opportunities, and promotes compatibility with neighboring uses.
2. Permitted Uses: Generally, single-family dwellings, two-family dwellings, manufactured homes, and related public and semi-public uses are permitted. For a general listing of permitted and conditionally permitted uses by Land Based Classification System (LBCS) groupings, see Appendix “A” of these regulations. The permitted uses will be determined based on compatibility with other uses permitted in the district and with listed LBCS groupings in the Appendix “A”.
3. Special Uses: For a general listing of special uses, see Appendix “A”.
4. Intensity of Use Regulations: Except as modified by the provisions of Article 5, same as R-1 for single-family dwellings, and for two-family dwellings:
 - A. Minimum Lot Area: 12,000 square feet.
 - B. Minimum Lot Width: 90 feet.
5. Height Regulations: Maximum Structure Height: 35 feet.
6. Yard Regulations: Except as modified by the provisions of Article 5, minimum yard depths shall be as follows:
 - A. Front Yard: 25 feet.
 - B. Side Yard: 7 feet
 - C. Rear Yard: 15 feet.
7. Use Limitations: See supplementary district regulations. Where duplex dwelling units are held in separate fee simple ownership, easements shall be dedicated for separate utilities to each unit.

Article 4 - District Regulations

“R-3” RESIDENTIAL - HIGH DENSITY DISTRICT

1. Intent: The intent of this district is to provide for higher density residential development, including single-family, two-family, and multi-family dwellings, in a manner that will encourage a strong residential neighborhood.

2. Permitted Uses: Generally, single-family dwellings, two-family dwellings, multi-family dwellings, manufactured homes, nursing homes, boarding houses, parks, educational and religious uses are permitted. For a general listing of permitted and conditionally permitted uses by Land Based Classification System (LBCS) groupings, see Appendix “A” of these regulations. The permitted uses will be determined based on compatibility with other uses permitted in the district and with listed LBCS groupings in the Appendix “A”.

3. Special Uses: For a general listing of special uses, see Appendix “A”.

4. Intensity of Use Regulations: Except as modified by the provisions of Article 5:
 - A. Minimum Lot Area: Multi-family: 1,500 square feet per dwelling unit.
Nursing Homes and Boarding Homes: 500 square feet per occupant.
Other uses: 5,000 square feet.

5. Height Regulations: Maximum Structure Height: 45 feet.

6. Yard Regulations: Except as modified by the provisions of Article 5, minimum yard depths shall be as follows:
 - A. Front Yard: 30 feet.
 - B. Side Yard: 5 feet, except as provided in Article 5, 2, Yard Regulations.
 - C. Rear Yard: 20 feet.

7. Use Limitations: See supplementary district regulations. For multifamily residential development, common open space shall be provided as approved on each site plan.

8. Site Plan Review: Development in the “R-3” District shall be subject to site plan review requirements and procedures.

“R-4” MANUFACTURED HOME PARK RESIDENTIAL DISTRICT

1. Intent and Purpose of District: The intent of this district is to provide for medium density Manufactured Home park development that is compatible with the character of the surrounding neighborhood in which it is located. Manufactured home parks are considered as a residential use and should be located in areas where services and amenities are available such as those found in conventional residential areas.
2. Permitted Uses: Generally, manufactured home parks and single-family residences are permitted. For a general listing of permitted and conditionally permitted uses by Land Based Classification System (LBCS) groupings, see Appendix “A” of these regulations. The permitted uses will be determined based on compatibility with other uses permitted in the district and with listed LBCS groupings in the Appendix “A”.
3. Special Uses: For a general listing of special uses, see Appendix “A”.
4. Intensity of Use Regulations: Except as hereinafter provided, all dwellings hereafter erected, enlarged, relocated, or reconstructed shall be located upon lots containing the following areas:
 - A. Minimum lot area: 2 acres.
 - B. Minimum lot width: 150 feet.
5. Height Requirements: Maximum structure height: 35 feet.
6. Yard Requirements:
 - A. Front Yard: 30 feet.
 - B. Side Yard: 10 feet.
 - C. Rear Yard: 30 feet.
7. Use Limitations: See supplementary district regulations. Each manufactured home park shall be designed in accordance with the minimum design standards in Article 18 of these regulations.

Article 4 - District Regulations

“C-B” CENTRAL BUSINESS DISTRICT

1. Intent: The intent of this district is to provide for a zone that promotes preservation of the historic Osawatomi Downtown and its adjacent neighborhoods as to form and function in the following areas:
Lots 19 thru 30 in Block 22; Lots 11 thru 28 in Block 23; Lots 11 thru 18 in Block 24; Lots 8 thru 10 in Block 31; Lots 1 thru 20 in Block 32 and Lots 1 thru 13 in Block 33 all in the Original Town Addition and Lots 4 thru 10 in Block 66 in the Ellensville Addition.
2. Permitted Uses: Generally, the retailing of goods and services, public and semi-public uses, multifamily dwelling units in mixed-use structures, and compatible commercial uses adjacent to residential districts are permitted. For a general listing of permitted and conditionally permitted uses by Land Based Classification System (LBCS) groupings, see Appendix “A” of these regulations. The permitted uses will be determined based on compatibility with other uses permitted in the district and with the listed LBCS groupings in Appendix “A”.
3. Special Uses: For a general listing of special uses, see Appendix “A”.
4. Intensity of Use Regulations: Except as modified by the provisions of Article 5, same as R-1 for single-family dwellings, and same as R-2 for two-family dwellings; and for commercial land uses:
 - A. Minimum Lot Area: 2,750 square feet.
 - B. Minimum Lot Width: 25 feet.
 - C. Lot Coverage: Principal and accessory structures shall not cover more than 80 percent of the lot.
5. Height Regulations: Maximum Structure Height: 35 feet.
6. Yard Regulations: Except as modified by the provisions of Article 5, and to the extent practicable on Main Street facing parcels, minimum yard depths shall be as follows:
 - A. Front Yard: Historic setbacks shall be maintained, including zero lot lines on Main Street.
 - B. Side Yard: Residential Uses: 7 feet. All other uses: None.
 - C. Rear Yard: 15 feet.
7. Use Limitations: See supplementary district regulations; and Downtown Development Standards in Article 16, Planned Overlay District (POD). Legal, conforming residential structures and land uses as of the date of these regulations shall continue their legal, conforming status; except that, they shall conform with residential development standards of the R-1 District for structural improvements.
8. Site Plan Review: Development in the “C-B” District shall be subject to site plan review and POD requirements and procedures.

“G-B” GENERAL BUSINESS DISTRICT

1. Intent: The intent of this district is to provide a zone for those commercial uses which are intensive in nature and which require large lots and direct access to major streets.
2. Permitted Uses: Generally, the retailing of goods and services, motels, restaurants, service stations and contractor’s yards are permitted. For a general listing of permitted and conditionally permitted uses by Land Based Classification System (LBCS) groupings, see Appendix “A” of these regulations. The permitted uses will be determined based on compatibility with other uses permitted in the district and with listed LBCS groupings in the Appendix “A”.
3. Special Uses: For a general listing of special uses, see Appendix “A”.
4. Intensity of Use Regulations:
 - A. Minimum Lot Area: 5,500 square feet.
 - B. Minimum Lot Width: 44 feet.
5. Height Regulations: Maximum structure height: 60 feet.
6. Yard Regulations:
 - A. Minimum Front Yard: 15 feet.
 - B. Minimum Side Yard: 5.
 - C. Minimum Rear Yard: 15 feet.
7. Use Limitations: See supplementary district regulations.
8. Site Plan Review: Development in the “G-B” District shall be subject to site plan review requirements and procedures.

Article 4 - District Regulations

“I-1” INDUSTRIAL - DISTRICT

1. Intent: The intent of this district to permit a restricted range of business park and industrial uses, including storage and to address issues of multiple tenancy compatibility through Site Plan Review, as well as compatible development with adjacent districts. This district allows office and light industries.

2. Permitted Uses: Generally, light manufacturing, wholesaling, trucking and warehousing uses, as well as research, development, analysis or testing laboratories as a part of product development centers, testing facilities or research centers. For a general listing of permitted and conditionally permitted uses by Land Based Classification System (LBCS) groupings, see Appendix “A” of these regulations. The permitted uses will be determined based on compatibility with other uses permitted in the district and with listed LBCS groupings in the Appendix “A”.

3. Special Uses: For a general listing of special uses, see Appendix “A”.

4. Intensity of Use Regulations:
 - A. Minimum Lot Area: 6,000 square feet.
 - B. Minimum Lot Width: 50 feet.

5. Height Regulations: Maximum Height of Structure: 35 feet.

6. Yard Regulations: Except as modified by the provisions of Article 5, minimum yard depths shall be as follows:
 - A. Front Yard: 20 feet.
 - B. Side Yard: 10 feet.
 - C. Rear Yard: 20 feet.

7. Use Limitations: See supplementary district regulations.

Development in the “I-1” District shall be subject to site plan review requirements and procedures and shall comply with the following conditions:

 - A. All storage of materials, products or equipment, except those related to or used for agricultural research, testing and/or analysis purposes, shall be within a fully enclosed building or in an open yard so screened that the materials stored are not clearly visible within one thousand (1,000) feet of the property line. Where topographic conditions make effective screening impractical, the commission may make variances as they deem advisable.

- B. A solid or semi-solid screen or wall at least six feet high, but not more than eight feet, and having a density of not less than 70 percent per square foot upon maturity of growth shall be planted or constructed adjacent to an adjoining residential district unless the adjacent residential district and the industrial district are separated by a street right-of-way.
 - C. No structure shall be used for residential purposes except that a watchman may reside on the premises.
 - D. Facilities Used for Agricultural Research, Testing and/or Analysis: In agriculture-related research facilities, the operations required to be conducted outside a fully enclosed building shall be conducted in controlled outdoor areas.
 - E. A private street network may be allowed where comprehensive control of a large industrial site is required for safety or security reasons, and where no unsecured access to the site is afforded the public; which private roadways may be improved with an all-weather surface other than asphaltic concrete such as gravel or stone, designed to permit surface drainage without erosion of adjacent land.
8. Site Plan Review: Development in the “I-1” District shall be subject to site plan review requirements and procedures.
9. Vested Rights: Land parcels within an I-1, Light Industrial District, which have been platted in an approved preliminary or final subdivision plat prior to the date of these regulations, shall be granted the vested right to continue development of those uses permitted under the requirements of the zoning and subdivision regulations in effect at the time of the approval of the preliminary plat and subject to all other requirements of the existing regulations as amended.

Article 4 - District Regulations

“I-2” HEAVY INDUSTRIAL - DISTRICT

1. Intent: The intent of this district to permit a broad range of more intense industrial uses and to address issues of potential obnoxious appearance, noise, emissions, or odor through Site Plan Review because they require careful site planning to be compatibly developed with adjacent districts. This district allows basic or primary industries.

2. Permitted Uses: Generally, heavy manufacturing, trucking and warehousing uses, as well as salvage and wrecking uses. For a general listing of permitted and conditionally permitted uses by Land Based Classification System (LBCS) groupings, see Appendix “A” of these regulations. The permitted uses will be determined based on compatibility with other uses permitted in the district and with listed LBCS groupings in the Appendix “A”.

3. Special Uses: For a general listing of special uses, see Appendix “A”.

4. Intensity of Use Regulations:
 - A. Minimum Lot Area: 6,000 square feet.
 - B. Minimum Lot Width: 50 feet.

5. Height Regulations: Maximum Height of Structure: 35 feet.

6. Yard Regulations: Except as modified by the provisions of Article 5, minimum yard depths shall be as follows:
 - A. Front Yard: 20 feet.
 - B. Side Yard: 10 feet.
 - C. Rear Yard: 10 feet.

7. Use Limitations: See supplementary district regulations.

Development in the “I-2” District shall be subject to site plan review requirements and procedures and shall comply with the following conditions:

 - A. A solid wall at least six feet high, but not more than eight feet shall be installed adjacent to any residential district.

 - B. Facilities Used for Agricultural Research, Testing and/or Analysis shall meet use limitations in I-1 District limitations.

- C. A private street network may be allowed where comprehensive control of a large industrial site is required for safety or security reasons, and where no unsecured access to the site is afforded the public; which private roadways may be improved with an all-weather surface other than asphaltic concrete such as gravel or stone, designed to permit surface drainage without erosion of adjacent land.
8. Site Plan Review: Development in the “I-2” District shall be subject to site plan review requirements and procedures.
9. Vested Rights: Land parcels within an I-2, Light Industrial District, which have been platted in an approved preliminary or final subdivision plat prior to the date of these regulations, shall be granted the vested right to continue development of those uses permitted under the requirements of the zoning and subdivision regulations in effect at the time of the approval of the preliminary plat and subject to all other requirements of the existing regulations as amended.

Article 4 - District Regulations

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ARTICLE 5 – SUPPLEMENTARY DISTRICT REGULATIONS

1. Height Regulations: Chimneys, cooling towers, elevator head houses, fire towers, grain elevators, monuments, stacks, stage towers, or scenery lofts, tanks, water towers, ornamental towers, spires, church steeples, and necessary mechanical appurtenances, usually required to be placed above the roof level and not intended for human occupancy, are not subject to the height limitations contained in the District Regulations. In all districts, one (1) additional foot of height above the specified height limitation shall be permitted for each foot of additional yard provided over the minimum requirement on all sides of the lot.

2. Determination of Structure Setback Lines: The structure setback line shall be determined by measuring the horizontal distance between the property line and the vertical plane of the furthest architectural projection of the existing or proposed structure; except that certain architectural projections listed below may extend beyond the structure setback line, subject to the following conditions:
 - A. Projections for new construction shall conform to the provisions of the adopted building codes in effect at the time of application, with regard to construction details, property setbacks and public property encroachment.

 - B. Projections shall be defined as: Any structural or non-structural portion or appendage attached to the main structure which by design protrudes outward beyond the structure floor, wall, roof or foundation line. Projections include, but are not limited to:

(1) Roof Eaves	(6) Bay and Egress Windows
(2) Cornices	(7) Combustible or Noncombustible Ornamentation
(3) Open Porches	(8) Soffits
(4) Stairs	(9) Balconies
(5) Dormers	(10) ADA Compliant Ramps

 - C. Exceptions for ADA Ramps, Open Porches, and Canopies and Awnings: An ADA-compliant ramp may be permitted to extend into a required yard setback, an open porch in required yards, and a canopy or awning may be permitted to intrude into or overhang a public right of way provided that:
 - (1) The ADA ramp is to be built to the minimum intrusion into the required yard setback practicable while still in conformance to accessibility standards.

 - (2) Open Porches for residences may be built into the required front or rear yard not more than six feet, and may be covered with a roof or canopy not exceeding the footprint of the open porch.

Article 5 - Supplementary District Regulations

- (3) A canopy or awning may extend into or overhang a public right of way provided it is covered with a fabric material, such as canvas, or is made of a material that simulates a fabric covering, other than metal or aluminum, and provided further that:
 - (i) No portion of the canopy or awning shall be less than eight (8) feet above the level of the sidewalk or other public way.
 - (ii) No portion of the canopy or awning shall extend beyond the curb line of a public street or alley.

3. Yard Adjustments:

- A. Minimum Yard Adjustments: The yard requirements heretofore established may be adjusted in the following cases:
 - (1) Where the property fronts on two intersecting streets (a corner lot), such lot shall maintain a front yard setback on both streets; except that, where no lots within the same block front on one of the two intersecting streets, the side yard requirements along such street shall be fifteen (15) feet.
 - (2) Double frontage lots shall maintain the required front yard setback along both frontages.
- B. Minimum Yard Adjustments for Lots of Record Prior to 12/12/98: The yard requirements of such lots of record heretofore established prior to 12/12/98 in all districts may be reduced in the following cases:
 - (1) The buildable width may be reduced to as narrow as 35 feet, except where necessary to provide a side yard five (5) feet in width.
 - (2) Where 50 percent or more of the lots on one side of a street between two intersecting streets are developed with an established front yard setback less than required, then the minimum front yard setback may be reduced to the average of the established setback.
- C. Condominium and Townhouse Minimum Yard Requirements: The yard requirements heretofore established in all districts shall be adjusted in the following cases:
 - (1) Where independent dwelling units are to be sold as condominiums, minimum lot size requirements shall not apply to each individual ownership, but shall be applied collectively

to the common open space surrounding the structure(s) such that the total open space is an aggregate of the minimum lot area required for each dwelling unit; however, the minimum lot width and depth for the district shall be applied to the entire zoning lot.

- (2) Where independent dwelling units are to be sold as condominiums, bulk regulations shall not apply to each individual ownership, but shall be applied to the entire zoning lot.

4. Principal Structures:

- (1) Compatibility with Principal Structures. In R-1, R-2 and R-3 Districts, other than in established rear yards, additions and attached garages added to principal structures shall be built with structural and finish materials that match or are similar to the principal structure.
- (2) Presentation to the Public Street. In other than Industrial Districts, Principal structures shall be front-facing, with the entrance door toward the public street and the front yard of the lot; except that, where a side-facing principal structure is proposed, the applicant shall propose façade treatments that include at least one window and other design elements, fenestration and building trim that mitigate the effects of turning the building away from the established development pattern and function of the block and neighborhood.

5. Accessory Structures and Uses: Unless otherwise provided, no accessory structure or use shall be erected in any required or established front yard unless otherwise provided in Table 1A; and a detached accessory garage shall be erected no closer than ten (10) feet to the principal structure on the lot; except that, the detached garage setback may be reduced to five (5) feet if adjacent only at a corner point. Accessory garages accessed from a rear alley shall be no closer than fifteen (15) feet from the centerline of the alley. All accessory structures shall be subject to site plan review. No single accessory structure shall be greater than 75% of the square footage of the foot print of the principal structure, unless in R-1 and located on a lot 3 acres or greater in size, where no accessory structure shall be greater than 125% of the principal structure.

Permitted accessory structures and uses allowed in AG, R-1, R-2, R-3, R-4, C-B, and G-B zoning districts in connection with permitted principal uses are listed in Table 5A on the following page. In addition, the following conditions apply to accessory structures and uses:

- A. Structures for storage incidental to a permitted principal use shall be allowed, in accordance with Table 5A, provided that:
 - (1) Temporary storage units in other than industrial districts shall be no greater than 800 cubic feet in volume and no taller than ten (10) feet in height.
 - (2) Portable Storage Containers for temporary on-site storage shall comply with the following:

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Table 5A: Accessory Structures by Zoning District and Lot Size

Zone	Lot Size	Max Total Sq. Ft. of Accessory Structures	No. of Structures Allowed		Restricted: From Front Yards	Setbacks: Side and Rear Yards	Sidewall Heights
			<=216 sq ft	>216 sq ft			
AG	All	NA			Required Front Yard	10 ft	NA
R-1	< 5,000 sq ft	600 sq ft	1	1	Established Front Yard	5 ft	12' Sidewall
	5,000 sq ft to ½ acre	5% of lot size but at least 600 sq ft	1	1	Established Front Yard	5 ft	12' Sidewall
	½ - 1 acre	3% of lot size but at least 1,200 sq ft	1	1	Established Front Yard	10 ft	12' Sidewall
	1 - 2 acres	2% of lot size but at least 1,500 sq ft	1	1*	Established Front Yard	10 ft	16' Sidewall
	2 - 3 acres	2% of lot size	2	2	Required Front Yard	10 ft	20' Sidewall
	> 3 acres	2% of lot size up to 3,200 sq ft	2	2	Required Front Yard	10 ft	20' Sidewall
R-2	Up to 5,000 sq ft	600 sq ft	1	1	Established Front Yard	5 ft	12' Sidewall
	5,001 sq ft to ½ acre	5% of lot size but at least 600 sq ft	1	1	Established Front Yard	5 ft	12' Sidewall
	½ acre to 1 acre	3% of lot size but at least 1,100 sq ft	1	1	Established Front Yard	10 ft	12' Sidewall
	1 acre or greater	2% of lot size but at least 1,300; maximum 1,800 sq ft	1	1	Established Front Yard	10 ft	20' Sidewall
R-3	All	1,800 sq. ft.	1	1	Established Front Yard	5 ft	20' Sidewall
R-4	All	400 sq. ft.	1 total		Established Front Yard	5 ft	10' Sidewall
C-B	All	400 sq. ft.	1 total		Established Front Yard	Principal Structure	10' Sidewall
G-B	All	1,800 sq. ft.	1	1	Established Front Yard	10 ft	12' Sidewall

* If no attached garage, 2 accessory structures > 216 sq. ft. allowed

- (3) Up to two (2) portable storage containers may be located in all residential zoning districts, if the container is placed on the drive or personal parking area and does not obstruct any City right-of-way or interfere with any vehicular or pedestrian circulation.

- (4) Portable storage containers shall not be used as permanent accessory structures in any residential or commercial district.
 - (5) Portable storage containers are permitted for up to 60 days in a calendar year and on no more than two (2) separate occurrences. The building official may grant additional time if needed to avoid hardship, and if the applicant has no other alternative for storage.
- B. Detached accessory structures larger than 216 square feet, which are outside the rear yard, shall be built with structural and finish materials that match or are similar to the principal structure. and, if greater than 1,200 square feet, shall provide double the required side yard setback.
- C. Refuse disposal structures are permitted in non-residential districts; provided that, in all business districts, where such a structure is visible from a public street, it shall be built in a similar architectural style and of the same or similar building materials as the principal structure, and no part of such structure shall be located in the front yard setback.
- D. A child's playhouse shall be allowed, provided it is not more than 120 square feet in gross floor area, and it shall not be located in the front yard setback. Attached garages and other attached accessory structures shall be designed as integral parts of the principal structure.
- E. No accessory structure shall exceed 12 feet in height at the sidewall unless otherwise provided in Table 5A or meeting the following criteria:
- (1) The accessory structure's sidewalls do not exceed the height of the primary structure's sidewalls;
 - (2) The accessory structure does not exceed the height of the primary structure or the height of the primary structures on abutting sites;
 - (3) The structure is complementary to the scale, proportion and design of the surrounding structures;
 - (4) A sidewall height of 20 feet is not exceeded in an "AG" district or non-residential district; and
 - (5) A sidewall height of 16 feet is not exceeded in any other residential zoning district.
 - (6) The maximum height of an accessory structure in an "AG" district shall be 35 feet.
 - (7) The height of an accessory structure in an "R-1" district, located on a lot of 3 acres or greater, shall be no greater than 30 feet.
- F. A private swimming pool and bathhouse (not exceeding 216 sq ft) provided that a swimming pool shall be allowed within required rear and side yards; and further, that:
- (1) Shall be located at least ten feet from the nearest property line.

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(2) An enclosure shall be provided in accordance with the Code of the City of Osawatomie at least four feet in height, no closer than four feet from any edge of the pool.

G. Statuary, arbors, trellises, flagpoles, and hedges may be placed in required setback areas, which accessory structures should be designed to fit the overall bulk and height of the principal structure on the lot or neighborhood. For example, a residential flagpole should be sized to the bulk and height of the residential structures in the neighborhood.

H. Signs, when permitted by these regulations and by the individual district regulations.

I. Off-street parking and loading spaces, as permitted by these regulations.

J. Restaurants, drug stores, gift shops, clubs, lounges and newsstands, when located in a permitted hotel, motel or office structure.

K. Employee restaurants and cafeterias, when located in a permitted business, manufacturing or industrial structure.

L. Storage or use of accessory uses, such as boats, boat trailers, camping trailers, or converted buses or trucks; except that such uses shall be allowed within required rear yards and within established side yards if placed upon a hard or soft surface improvement, as defined in these regulations. Such uses shall not include the outdoor storage or parking of commercial trucks or buses that exceed a three-ton manufacturer's rating hauling capacity in a residential district.

M. Satellite dish antennas, except that such accessory structure shall be setback from all lot lines, and from the front yard setback lines, a distance no less than its height; and if roof mounted, shall not be visible from any public right-of-way if practical.

N. Home occupations, subject to limitations set forth in sub-section 11 of this Article.

6. Use Limitations of Accessory Structures: No accessory structure shall be constructed and occupied on any lot prior to the time of the completion of the construction of the principal structure to which it is accessory. No accessory structure shall be used for dwelling purposes; except that, echo housing may be approved by Special Use Permit.

7. Sight Triangle: On a corner lot in any district, development shall conform to the requirements of the sight triangle as defined by this regulation.

8. Access to Business and Industrial Districts: No land that is located in a residential district shall be used for a driveway, walkway or access to any land that is located in any business or industrial district.
9. Temporary Uses Permitted:
- A. **Christmas Tree Sales**: Christmas tree sales in any business or industrial district for a period not to exceed 60 days. Display of Christmas trees need not comply with the yard and setback requirements of these regulations, provided that no trees shall be displayed within 30 feet of the intersection of the curb line of any two streets.
 - B. **Contractor's Office**: Contractor's office and equipment sheds (containing no sleeping or cooking accommodations) accessory to a construction project and to continue only during the duration of such project.
 - C. **Real Estate Office**: Real estate office (containing no sleeping or cooking accommodations unless located in a model dwelling unit) incidental to a new housing development to continue only until the sale or lease of all dwelling units in the development.
 - D. **Seasonal Sales of Farm Produce**: Seasonal sale of farm produce grown on the premises, in any business or industrial district. Structures incidental to such sale need not comply with the applicable front yard requirements if the structures are removed or moved back of the required front yard setback line at the end of the season during which they are used.
 - E. **Temporary Outdoor Display and Sale of Merchandise**: Temporary display of merchandise in any business district is permitted outside of the principal structure. Incidental, temporary structures for such outdoor displays and sales may encroach on required and established front yards. Display materials in the C-B District may encroach on the public sidewalk, in conformance to other regulatory restrictions, if the display materials are removed from the sidewalk after business hours.
 - F. **Carnivals and Circuses**: A carnival or circus, but only in a "C-B" or "I" District, or in a public park, and then only for a period that does not exceed three weeks. Such use need not comply with the front yard requirements, provided that structures or equipment that might block the view of operators of motor vehicles on the public streets shall conform to the requirements of the sight triangle as defined by these regulations.
 - G. **Housing**: During construction of the principal residential structure, a basement, garage, camper or manufactured home may be utilized for temporary housing of full-time, regular workers for a period not to exceed six months. The Planning and Zoning Department may extend the period

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six additional months upon showing of good cause by the owner. Upon conclusion of the permitted time period or completion of the principal structure, whichever occurs first, the owner shall remove the temporary housing or make the necessary changes for the property to be in conformance with the regulations of the district in which the property is located.

- G. **Garage Sales:** The sale of used or second-hand merchandise shall be permitted in any residential district providing that such use shall not exceed three consecutive days in duration, nor occur more than four (4) times during a 12 month period at one residence.

- H. **Vessels for collection of recyclable** shall be setback from all required yards and screened from view of all rights-of-way and adjacent property lines.

- I. **Camping Trailers and Recreational Vehicles:** Camping Trailers, defined as vehicular type units primarily designed as temporary living quarters for recreational camping or travel uses and which have their own motive power, may be temporarily used as an overnight residence in areas of the City which are not considered camp grounds or trailer parks. Such use is within the discretion of the Codes Official and will only be granted under the following circumstances.
 - (1) The owner of the property where the camping trailer or recreational vehicle will be located, or their designated representative, obtains a permit for the camping trailer or recreational vehicle from the Codes Official, which permit will specifically designate the approved location for the trailer or vehicle and, if available, any connections to water and sewer pipes; and
 - (2) Such permit does not exceed seven (7) days, and may only be renewed once for an additional seven (7) day period; and
 - (3) The property owner, or their designated representative, pays a fee of \$15 for the permit, and an additional fee in the same amount for any renewal; and
 - (4) Such permit is conspicuously displayed on the trailer or recreational vehicle so that it can be seen from the outside by the Codes Official; and
 - (5) In the event that no sewer connection is available and approved by the Codes Official, the property owner, or their designated representative agrees that no waste materials other than ordinary bagged garbage will be released from the trailer or recreation vehicle for the duration of the unit's stay. The property owner, or their designated representative, also agrees that any such bagged garbage will be properly disposed of by placing it from the trailer or vehicle into the property owners garbage receptacles; and

- (6) The Codes Official may deny the requested permit if he/she determines that the trailer or vehicle, or any of its equipment, will constitute a nuisance or pose a health or safety risk; and
- (7) The Codes Official may revoke the permit or renewal of the same at any time if he/she determines that the trailer or vehicle or any of the equipment constitutes a nuisance or poses a health or safety risk; and
- (8) The failure of the property owner or their designated representative to remove the trailer or vehicle, or any equipment or garbage connected therewith, upon the expiration of the permit, or renewal of the same, will result in the property owner, and/or their designated representative, being fined not more than \$100.00 for each day that the trailer or vehicle, equipment, or garbage, remains on the property.

10. Fences and Walls: Except as otherwise specifically provided in other codes and regulations, fences and walls shall comply with building permit requirements and the following standards:

- A. Safety. No fence or wall shall be constructed in such a manner or be of such design as to be hazardous or dangerous to the public health, safety and welfare or constitute a traffic hazard.
- B. Front Yards—Established or Required Yards. Fences or walls in established or required front yards in all residential districts and in the AG and C-B District shall be no taller than four (4) feet, and in all other districts no taller than six (6) feet; provided further that, all front yard fences or walls shall be decorative.
- C. Side Yards. No fence or wall in required side yards shall be constructed to a height greater than six (6) feet except that, the Board of Zoning Appeals may authorize a fence no higher than eight (8) feet on a side lot line in an industrial district or in a residential district next to a non-residential use if the Board finds that the public welfare is served. Side yard fences on front yard-facing sides of corner lots must meet established front yard setbacks of the front-facing structures on the block.
- D. Rear Yards. No fence or wall in required rear yards shall be constructed to a height greater than six (6) feet in residential and business districts, and no higher than eight (8) feet in industrial districts except that, the Board of Zoning Appeals may authorize a fence no higher than eight (8) feet on a rear lot line in a residential district next to a non-residential use if the Board finds that the public welfare is served. Rear yard fences on through lots must meet established front yard and side yard setbacks.

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- E. Decorative fencing and walls in front yards shall be located no closer than one foot to any public or private street right-of-way, conform to sight triangle requirements, and shall meet the following standards:
 - (1) Present at least 50% opacity as viewed from the public street,
 - (2) Not connect with any other fence or wall on the property, and, for other than industrial uses, and
 - (3) Constructed of one or more of the following types of materials: brick or stone walls, split rail, wood rail, wrought iron, or spaced picket fence.

- F. All fences and walls that are broken or missing shall be promptly repaired or replaced, and painted portions kept free of chipping or peeling paint.

- G. All fences and walls shall be constructed with a finished surface facing outward from the property (e.g., in the case of a wooden fence, a "finished surface" means a surface of the fence where the pickets or slats are fully exposed to view). The posts and support beams shall be on the inside of the finished surface or shall be designed as an integral part of the finished surface. Provided, however, that where the Building & Zoning Official his/her designee determine that there are practical difficulties in complying with this standard, the fence posts may be outside the finished surface.

- H. In all commercial and industrial districts, a fence or wall may be constructed on any side or rear property line but shall not be located in any required front yard setback or be closer to any public or private street than the required setback for a building. 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 of the finished surface or shall be designed as an integral part of the finished surface.

- I. Retaining walls (excluding wing walls) may be permitted where they are reasonably necessary due to the topography of the lot, where the wall is located at least 1 foot from any street right-of-way, and where the wall does not extend more than 6 inches above the ground level of the land being retained.

11. Home Occupations: Home occupations shall be permitted in all districts, subject to the following restrictions and limitations.

- A. Restrictions and Limitations:

- (1) The home occupation shall be incidental and subordinate to the principal residential use of the premises and, except for home day care, not more than 25 percent of the floor area of any one floor of a dwelling unit shall be utilized for a home occupation.
- (2) All materials or equipment used in the home occupation shall be stored within an enclosed structure.
- (3) No alteration of the exterior of the principal residential structure shall be made which changes the character thereof as a dwelling.
- (4) No sign shall exceed two (2) feet in any one direction, shall not be illuminated and shall not be placed closer to the front property line than one-half the distance of the front yard.
- (5) No person shall be engaged in such home occupation other than a person occupying such dwelling unit as a residence, and not more than one non-resident full-time equivalent employee.
- (6) No equipment shall be utilized that creates a nuisance due to noise, odor, emissions or electrical interference.
- (7) Vehicular traffic generated by the business shall not be abnormal for local residential traffic volumes and vehicular types.
- (8) On-site exchange of goods, other than subordinate to and in support of permitted on-site services, shall not be permitted.

B. Particular Home Occupations Permitted: Customary home occupations include, but are not limited to, the following list of occupations subject to restrictions and limitations:

- (1) Art, dancing, and music schools provided that instruction is limited to five pupils at one time.
- (2) Professional offices for architects, engineers, planners, lawyers, accountants, bookkeepers, and similar professions.
- (3) Offices for realtors, insurance agents, brokers, sales representatives, and manufacturing representatives when no exchange of tangible goods is made on the premises.
- (4) Barber and beauty services.
- (5) Watch, clock, and jewelry repair services.
- (6) Radio, television, phonograph, recorder, and small appliance repair services.
- (7) Day care center in a residence, in compliance with licensure under state law.

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- (8) Home crafts and hobbies such as model making, rug weaving, lapidary work, cabinet making, etc.
- (9) Tailoring, alterations, and seamstresses.
- (10) Tool sharpening and filing.
- (11) Bed and breakfast, by special use permit, with certain conditions.
- (12) Boarder provider in single-family detached residences, provided no more than two boarders per residence.
- (13) Internet-based businesses.

C. Particular Home Occupations Prohibited: Permitted home occupations shall not in any event include the following:

- (1) Antiques - retail.
- (2) Funeral services.
- (3) Groceries - retail.
- (4) Second-hand merchandise - retail.
- (5) Tourist homes.
- (6) Equipment rental.
- (7) Automobile and small engine repair and other motor vehicle repair services.
- (8) Physicians.
- (9) Dentists.
- (10) Chiropractors.

12. Livestock and Animals: Keeping livestock in the City shall be restricted by City Code; and provided further, no accessory structure for housing animals shall be nearer than 50 feet from any side yard or rear yard lot line; and no animal shall be nearer than 150 feet from the center line of any public right-of-way.
13. Open Storage: The storage of salvage or scrap materials, inoperable motor vehicles, household goods or furniture, or business equipment or supplies for more than nine (9) consecutive days shall not be allowed in any residential district unless such items are stored in a completely enclosed building and are clearly secondary to the primary use of the property.
14. Sexually Oriented Businesses: Sexually Oriented (Adult Entertainment) Businesses are regulated by the City's Business Regulations; except that, in addition, no such adult entertainment business shall be closer than 2,500 feet of any premises licensed as the same use, and not within 1,000 feet of the parcel of land on which any protected use is located, including licensed day care center, private residence, house of worship, public school, playground, park, library, or other community recreational center or facility. Measurements shall be made in a straight line, without regard to intervening structures or

objects, from the nearest point of the lot containing or to contain the sexually oriented business to the nearest point of the lot containing a protected use.

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ARTICLE 6 – OFF-STREET PARKING AND LOADING REGULATIONS

1. Applicability: Off-street parking and loading space, as required in this article, shall be provided for all new structures, and for alterations and additions to existing structures. Off-street parking and loading space shall be required for any existing structure or structure which is altered in any manner so as to enlarge or increase capacity by adding or creating dwelling units, guest rooms, floor area or seats. Existing parking area previously required shall not be used to satisfy required off-street parking for any new structures, alterations, or additions to existing structures or uses of land. Such existing parking space shall be maintained and shall not be reduced so long as the main structure or use remains, unless an equivalent number of such spaces are provided elsewhere as provided in this article.

2. General Provisions:
 - A. Utilization: Required accessory off-street parking facilities provided for the uses hereinafter listed shall be solely for the parking of motor vehicles in operating condition of patrons, occupants, or employees of such uses.

 - B. Residential Districts: Spaces shall be provided in other than the front yard in all residential districts, except that in the event an attached garage is converted to a livable room of the dwelling, the parking space may occupy the existing concrete or asphaltic drives when located within the required front yard.

 - C. Front Yard Setbacks: Unless excepted by site-plan review, off-street parking spaces shall be provided in other than the front yard in all districts, except that in the event an attached garage is converted to a livable room of a dwelling, the parking space may occupy the existing concrete or asphaltic drives when located within the required front yard.

 - D. Accessory Use: Off-street parking shall be considered as an accessory use of the use for which the parking is provided. Parking not located on the same tract on which the main use is located must be located within the zoning district in which parking or storage lots are permitted as a main use; or be located in accordance with the provisions of this article relating to off-street parking exceptions. In no instance shall off-street parking required by this article be located more than 300 feet (as measured along lines of public access) from the use that it serves.

 - E. Repair Service: No motor vehicle repair work or service of any kind shall be permitted in association with any off-street parking facilities.

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- F. Computation: When determination of the number of off-street parking spaces required by this regulation results in a requirement of a fractional space, the fraction of 1/2 or less may be disregarded, and a fraction in excess of 1/2 shall be counted as one parking space.
 - G. Mixed Uses: When a structure or development contains mixed uses, the off-street parking requirements shall be calculated for each individual use and the total parking requirement shall be the sum of individual parking requirements.
3. Improvement Requirements: New off-street parking improvements in all Districts shall be hard surfaced. Off-street parking accessed from a gravel alley in R-1 and R-2 Districts may be gravel surfaced. Existing gravel parking lots shall be maintained in a stable and dust-free condition and shall prohibit gravel from washing into the public street or alley or across lot lines.
4. Layout Requirements: Off-street parking plans, other than for single-family residences, shall be subject to Site Plan Review. The construction and renovation of certain structures and facilities must conform to the provisions of the Americans with Disabilities Act (ADA) Title III of 1990. Structural plans for construction, alteration or remodeling permits must identify how compliance to the ADA parking and other site requirements are to be met.
5. Design Requirements: The Codes Official will provide information upon request to assist the public in interpreting the requirements of the ADA, which generally provide for at least one accessible route within the boundary of the site from a parking space or street to an accessible structure entrance. Accessible spaces and access aisles are required, as well, among other detailed provisions.

For parking layout and design not subject to ADA requirements, the following standards apply:

- A. Area: A required off-street parking space shall be at least 8 feet 9 inches in width and at least 19 feet in length, exclusive of access drives or aisles, ramps, and columns.
- B. Access: Each required off-street parking space shall open directly upon an aisle or driveway of such width and design as to provide safe and efficient means of vehicular access to such parking space.
- C. Design: Off-street parking spaces shall comply with the design standards relating to minimum surfacing, stall depth, driveway width, island width, barriers, and ingress and egress as contained in the Off-Street Parking Standards of this article.
- D. Minimum Hard Surfacing Standards: All open off-street parking surfacing, including aisles, approaches and driveways that are hard surfaced shall meet the following standards:

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- (1) Non-Residential Development and Multifamily Residential Development: Hard surfacing shall consist of a minimum of six (6) inches asphaltic concrete on six (6) inches of compacted subgrade or six (6) inches Portland cement concrete on four (4) inches of compacted AB-3 aggregate subgrade, unless otherwise recommended by a geotechnical engineer and approved by the City Engineer. Concrete reinforcing steel shall be provided for all concrete surfaces. The reinforcing steel shall be number 4 rebar on twenty-four (24) inch centers each way, or six (6) inch by six (6) inch W14 x W14 welded wire fabric, or as otherwise approved by the City Engineer.

Certain research and development activities (except administrative or non-research and development related office activity) that are agricultural in nature and with low volumes of traffic, shall not be required to hard surface and curb their parking lots and entry drives except that seventy-five (75) feet of the drive approach from a public right-of-way shall in all cases be hard surfaced. In addition, any non-agricultural related office use parking area shall be hard surfaced.

- (2) Ingress and egress shall be by means of paved driveways not exceeding thirty-five (35) feet in width for two-way drives; and sixteen (16) feet for one-way drives.
- (3) Residential Development: Hard surfacing shall consist of a minimum of four (4) inches of asphaltic concrete on four (4) inches of compacted subgrade or a minimum of four (4) inches of steel reinforced concrete on four (4) inches of compacted AB-3 aggregate subgrade, unless otherwise recommended by a geotechnical engineer and approved by the City Engineer. Concrete reinforcing steel shall be provided for all concrete surfaces. The reinforcing steel shall be number 4 rebar on twenty-four (24) inch centers each way, or six (6) inch by six (6) inch W14 x W14 welded wire fabric, or as otherwise approved by the City Engineer.

Residential development on a legal lot of record consisting of two (2) acres or greater shall only be required to hard surface the drive approach from the edge of the public travel way to a distance measured seventy-five (75) feet beyond the abutting public right-of-way.

- (4) Compacted Subgrade: For the purposes of these regulations, compacted subgrade shall be defined as ninety-five (95) percent of the standard maximum density for the material used as determined by ASTM 698 with a tolerance of minus three (3) percent and plus two (2) percent of the optimum moisture at the maximum density as determined by the moisture density curve obtained.

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- (5) Right-of-way Determination: In an instance where more or less street right-of-way exist than required by the Subdivision Regulations and/or the Comprehensive Plan, the distance to be hard surfaced shall be measured from a location equal to the minimum “required” right-of-way location as opposed to the actual existing right-of-way location.
- E. Minimum Gravel Surfacing: All areas intended for gravel parking improvement shall meet the following minimum standards:
- (1) Standard-Duty Design: Vehicle circulation and parking shall be constructed with a minimum of six (6) inches of gravel meeting engineer’s specifications for sub-base and six (6) inches of crushed gravel for a surface.
- (2) Heavy-Duty Design: Parking lots or portions thereof which experience heavier use as measured by volume or vehicle weights shall be designed to sustain greater loads. Areas so designated shall be surfaced with a minimum of twelve (12) inches of gravel meeting engineer’s specifications for sub-base and six (6) inches of crushed gravel for a surface.
- (3) The drive approach from a paved public road to a private gravel parking lot shall be hard surfaced with asphalt or concrete in the public right of way, from edge of paved road to edge of graveled parking lot.
- (4) For two-way entering and exiting traffic, the paved drive approach shall be no less than 30’ and no more than 35’ in width.
- F. Lighting: Any lighting used to illuminate off-street parking and loading areas shall be directed away from residential properties in such a way as not to interfere with the residential use.
- G. Landscaping and Screenings: All off-street parking facilities in other than “R-1” and “R-2” and “C-B” Districts shall be screened and landscaped as required in site plan review.
- H. Location of Parking Facilities: Off-street parking facilities shall be located as hereinafter specified. Where a distance is specified, such distance shall be the walking distance measured from the nearest point of the parking facility to the entrance of the building that it is required to serve:
- (1) For one and two-family dwellings: On the same lot as the principal structure, with two or more spaces per unit.

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- (2) For multifamily dwellings: Not more than 200 feet from the premises they are required to serve, with one or more spaces per unit.
- (3) For commercial and institutional uses (for hospitals, sanitariums, asylums, orphanages, rooming houses, club rooms, fraternity and sorority houses): Not more than 300 feet from the building they are required to serve.
- (4) For uses other than those specified above, not more than 1,000 feet from the building they are intended to serve.

6. Required Spaces: Off-street parking spaces shall be provided as follows:

A. Dwelling and Lodging Uses:

- (1) Boarding or rooming houses: One parking space per each three sleeping rooms.
- (2) Dormitories, fraternities, and sororities: Two parking spaces for each three occupants based on the maximum design capacity of the structure.
- (3) Hotels and motels: One space per each rental unit plus one space per each two employees in the largest working shift and such spaces as are required for restaurants, assembly rooms, and other affiliated facilities provided.
- (4) Manufactured home parks: Two parking spaces per each manufactured home.
- (5) Nursing homes, rest homes, etc.: One parking space per each five beds based on the designed maximum capacity of the structure, plus one parking space for each employee.
- (6) Single-family: Two spaces per dwelling unit.
- (7) Two-family: Two spaces per dwelling unit. Two-family dwelling units designed specifically for the elderly, one space per two dwelling units.
- (8) Multifamily: One and one-half spaces per dwelling unit. Multifamily dwelling units designed specifically for the elderly, one space per two dwelling units.

B. Business, Commercial, and Industrial Uses:

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- (1) Automobile, truck, recreational vehicle and manufactured home sales and rental lots: One parking space for each 3,000 square feet of open sales lot area devoted to the sale, display and rental of said vehicles, plus one parking space for each employee.
- (2) Automobile salvage yards: One parking space for each employee, plus one parking space for each 10,000 square feet of storage area.
- (3) Financial, business, and professional offices: One parking space for each 300 square feet of gross floor area.
- (4) Bowling alleys: Four parking spaces for each lane.
- (5) Cartage, express, parcel delivery and freight terminal establishments: One parking space for each two employees in the largest working shift in a 24-hour period, plus one parking space for each vehicle maintained on the premises.
- (6) Automobile wash: Three holding spaces for each car washing stall plus two drying spaces for each car washing stall.
- (7) Funeral homes and mortuaries: One parking space for each four seats based upon the designed maximum capacity of the parlor, plus one additional parking space for each employee and each vehicle maintained on the premises.
- (8) Furniture and appliance stores, household equipment or furniture repair shop: One parking space for each 400 square feet of floor area.
- (9) Manufacturing, production, processing, assembly, and disassembly, cleaning, servicing, testing or repairing of goods, materials or products: One per three employees based upon the largest working shift in any 24-hour time period.
- (10) Medical and dental clinics or offices: One parking space for each 200 square feet of gross floor area.
- (11) Restaurants, private clubs and taverns: One parking space for 2.5 seats based on the maximum designed seating capacity; provided, however, that drive-in restaurants shall have a minimum of at least ten parking spaces.
- (12) Retail stores and shops: One space per 200 square feet of floor area.

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- (13) Service stations: One parking space for each employee plus two spaces for each service bay.
- (14) Theaters, auditoriums, and places of assembly with fixed seats: One space for each 3.5 seats.
- (15) Theaters, auditoriums, and places of assembly without fixed seats: One parking space for each four people, based upon the computed occupant load of the structure or the assembly area.
- (16) Warehouse, storage and wholesale establishments: One parking space for each two employees based upon the largest working shift in any 24-hour period.
- (17) All other business and commercial establishments not specified above: One parking space for each 300 square feet of floor area.

C. Other Uses:

- (1) Churches: One parking space for each six seats based upon the maximum designed seating capacity, including choir lofts.
- (2) Elementary, junior high and equivalent parochial and private schools: Two spaces for each classroom.
- (3) High schools, colleges, universities and other similar public or private institutions of higher learning: Eight parking spaces for each classroom, plus one space for each two employees.
- (4) Medical Facilities: One parking space for every four beds, plus one parking space for each resident or staff doctor plus one space for each two employees based on the largest working shift in any 24-hour period.
- (5) Laundromats: One space for each two washing machines.
- (6) Nursery schools and day care centers, public or private: One parking space for each employee.
- (7) Fraternal associations and union headquarters: One parking space for each three seats based upon the design maximum seating capacity.

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- (8) Swimming pools and clubs: One parking space for each 50 square feet of water area.
- (9) Trade and commercial schools: One parking space for each three students and employees.

7. Special Uses:

- A. District Permitted: In order to provide off-street parking areas, the Planning Commission may, after public notice and hearing, grant as a special use the establishment of parking areas in any zoning district under the provisions further set forth in this section.
- B. Location: Parking provided under this section must be within 300 feet (along lines of public access) from the boundary of the use for which the parking is provided.
- C. Use: The parking area shall be used for passenger vehicles only, and in no case shall it be used for sales, repair work, storage, dismantling or servicing of any vehicles, equipment, materials, or supplies. Only such signs as are necessary for the proper operation of the parking lot shall be permitted.

8. Loading and Unloading Regulations: Loading and unloading space shall be provided off-street and on the same premises with every structure or part thereof, hereafter erected, established or enlarged and occupied for goods display, retail operation, department store, market, hotel, mortuary, laundry, dry cleaning, office uses or warehouses, manufacturing or other uses, involving the receipt or distribution of materials or merchandise by motor vehicles. The loading and unloading space or spaces shall be so located to avoid undue interference with public use of streets, alleys and walkways.

A. Spaces Required:

- (1) For all uses in the “G-B,” “I” and “T” Districts, loading facilities shall be provided in accordance with the following table:

<u>Gross Floor Area of Establishments in Thousands of Sq. Ft.</u>	<u>Required Number and Size of Loading Berths</u>
1 - 10	1 - (10' x 25')
10 - 40	1 - (10' x 70')
40 - 100	2 - (10' x 70' each)

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- (2) For each additional 100,000 square feet of gross floor area or any fraction thereof over 100,000 square feet of gross floor area, one additional berth shall be provided. Each such additional berth shall be at least 10 feet in width by 70 feet in length.

Article 6 - Off-Street Parking and Loading Regulations

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ARTICLE 7 – SIGN REGULATIONS

1. Applicability: Any sign shall, by definition, be a structure. No land, personal property or structure shall be used for sign purposes except as specified herein. All signs legally existing at the time of passage of these regulations may remain in use under the conditions of legal nonconformance. Signs in legal nonconformance shall not be enlarged, moved, lighted, or reconstructed; however, the change of the advertising display shall not be restricted except as previously stated. No sign shall be erected, enlarged, constructed or otherwise installed without first obtaining a sign permit, and a sign permit shall be legally issued only when in compliance with this sign regulation. All signs shall be constructed in such a manner and of such material that they shall be safe and substantial.
2. Zoning District Requirements: Signs are allowed in each zoning district as provided in *Appendix A: NON-RESIDENTIAL SIGNS by STRUCTURAL TYPE / ZONING*, and *Appendix B: Table of Permitted and Specially Permitted Signs*. The Appendices list requirements by numbers of signs allowed (per structure or on each premises), size, height, setbacks, and illumination. The cells in the tables list exclusively permitted signs and standards; except that ground signs, elevated signs, and monument signs are mutually exclusive: one sign is allowed, only, per premises.
3. General Definitions:
 1. *Awning*: A roof-like cover that projects from the wall of a building for the purpose of shielding a doorway, walkway, or window from the elements. Awnings are often made of fabric or flexible plastic supported by a rigid frame, and may be retracted into the face of the building.
 2. *Elevation*: A depiction or drawing to scale showing horizontal and vertical elements of a building or structure, including but not limited to walls, roof lines and other architectural features.
 3. *Façade*: The front of a building or any of its sides facing a public way or space, especially one distinguished by its architectural treatment.
 4. *Freestanding*: A structure permanently attached to the ground and that is wholly independent of any building or other structure. The term “freestanding sign” includes, but is not limited to, *ground signs* and *monument signs*.
 5. *Fully Illuminated*: Any structure that is illuminated by an external or internal light source that is visible.
 6. *Illuminated*: See *Fully Illuminated*, *Indirectly Illuminated* and *Internally Illuminated*.

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7. *Indirectly Illuminated:* Any structure that is partially or completely illuminated at any time by an external light source that is shielded to not be visible at eye level.
8. *Internally Illuminated:* Any structure that is illuminated internally over its entire area by use of electricity or other artificial light.
9. *Marquee:* A roof-like structure, often bearing a sign, projecting over an entrance, as to a theater.
10. *Monolithic Base:* A solid support of a sign face the width of which is no less than 50 percent of the sign face width.
11. *Multi-Faced:* A sign structure that contains two (2) or more sign face surfaces that are located on different sides of the structure and are separated from each other at their nearest point by no more than three (3) feet.
12. *Multi-Tenant Nonresidential Development:* A single office, commercial or industrial parcel that is designed or intended for occupancy by two or more businesses.
13. *Parcel:* A lot or contiguous group of lots under single ownership, or under single control usually considered a unit for purposes of residence, development, and/or business.
14. *Premises:* A lot or parcel, together with all buildings and structures thereon.
15. *Seasonal Basis:* The culturally accepted period for observance of religious, national, or state holidays.
16. *Sign:* Any object, device, display, or structure, or part thereof, that is used to advertise, identify, display, or attract attention to an object, person, institution, organization, business, product, service, event, or location by any means, including words, letters, figures, design, symbols, fixtures, colors, illumination or projected images. Signs are accessory structures to the principal structure or use on a parcel, except as billboards may be approved, in which case such signs shall be considered principal structures.
17. *Sign Face:* The area or display surface as defined in these regulations.
18. *Sign Height:* The vertical distance to the highest point of a sign structure, as measured from the average grade at the base of the structure or directly below a projecting structure.

19. *Sign Structure:* All elements of a sign, including the sign face, background or decorative elements related to the presentation of the sign's message, and the structural supports.
20. *Temporary Event:* An activity having a specific duration, the sign for which shall be placed upon initiation of the temporary event, and removed within a specified period after termination of the event.
21. *Tenant:* One who possesses or occupies land or buildings by title, under a lease, or through payment of rent; an occupant, inhabitant, or dweller of a place.

4. Classification of Signs:

A. Functional Types:

1. *Animated signs:* Electronic signs with computer-generated animation that are components of otherwise permitted signs for a principal land use on the premises where the sign is placed; and whose message does not attract the attention of viewers through flashing displays.
2. *Attention Attracting Device:* Any flasher, blinker, animation, or other object displayed temporarily to attract the attention of the public to a temporary event.
3. *Banners:* A temporary sign of lightweight fabric or similar material that is mounted to a pole or building. Promotional banners may be used to announce open houses or grand openings, or special events.
4. *Billboards:* A sign which directs the attention of the public to any goods, merchandise, property, business, service, entertainment or amusement conducted or produced which is bought or sold, furnished, offered or dealt in elsewhere than on the premises where such sign is located or to which it is affixed.
5. *Bulletin Board Sign:* A sign that indicates the name of an institution or organization on whose premises it is located and which contains the name or names or persons connected with it, and announcement of persons, events or activities occurring at the institution. Such sign may also present a greeting or similar message.
6. *Business Sign:* A sign that directs attention to a business or profession conducted, or to products, services or entertainment sold or offered upon the premises where such sign is located, or to which it is affixed.

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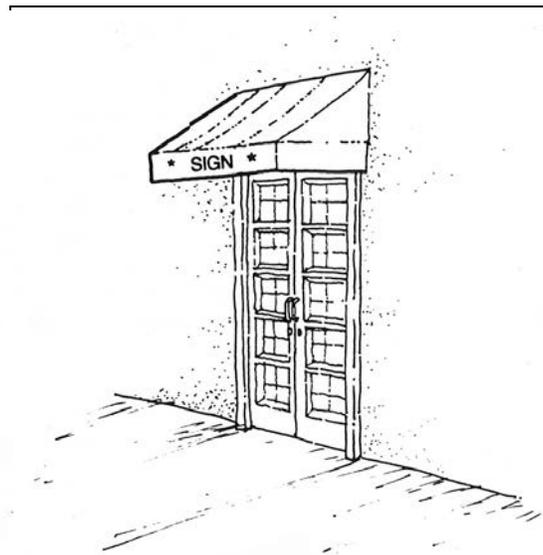
7. *Construction Sign:* A temporary sign indicating the names of the architects, engineers, landscape architects, contractors and similar artisans involved in the design and construction of a structure, complex or project only during the construction period and only on the premises on which the construction is taking place.
8. *Electronic Message Board:* A type of sign that presents its message through illumination of intermittent, or moving lights forming the letters, numbers, or symbols of the message, whether or not the message appears to move across the sign face.
9. *Entrance/Exit Sign:* A sign used to safely direct vehicular traffic into or out of a parcel or to or from a business via a driveway from a street if each sign complies with the following:
 - a. Entrance/exit signs may be located at driveways that provide access into or from the parcel.
 - b. There shall be no more than two (2) signs per driveway.
 - c. Each sign shall not exceed six (6) square feet in sign area nor be more than two and one-half (2½) feet in height.
10. *Identification Sign:* A sign giving the name and address of a structure, business, development or establishment. Such signs may be wholly or partly devoted to a readily recognized symbol.
11. *Incidental Sign:* An announcement or other display providing information about the occupancy or conduct of business permitted on a premises, such as logos of credit cards accepted on the premises, hours of operation, a “closed or “open” sign, emergency contact name and phone number, street address, “help wanted”, “no loitering or solicitations”, security system notices, notices required by law and similar information.
12. *Inflatable Sign:* A sign that is intended to be expanded by air or other gas for its proper display or support.
13. *Name Plate Sign:* A sign giving the name and/or address of the owner or occupant of a structure or premises on which it is located and, where applicable, a professional status.
14. *Off-premise sign:* Any sign not on the premises for which it advertises.
15. *Pole sign:* A freestanding sign attached to a bare pole, as distinct from an “elevated sign.”
16. *Project Entrance Sign:* A sign located at a discernible entrance into a particular subdivision, development, or office or industrial park.

17. *Real Estate Sign*: A temporary sign pertaining to the sale or lease of a lot or tract of land on which the sign is located, or to the sale or lease of one or more structures, or a portion thereof on which the sign is located.
18. *Snipe Sign*: A sign not otherwise allowed by these regulations that is attached to a fence, tree, temporary structure, utility pole or any other public property, except those placed by agencies of the federal, state or local government.
19. *Temporary Event Sign*: Sign for a temporary event as defined in these regulations provided they comply with the conditions of these regulations.

B. Structural Types:

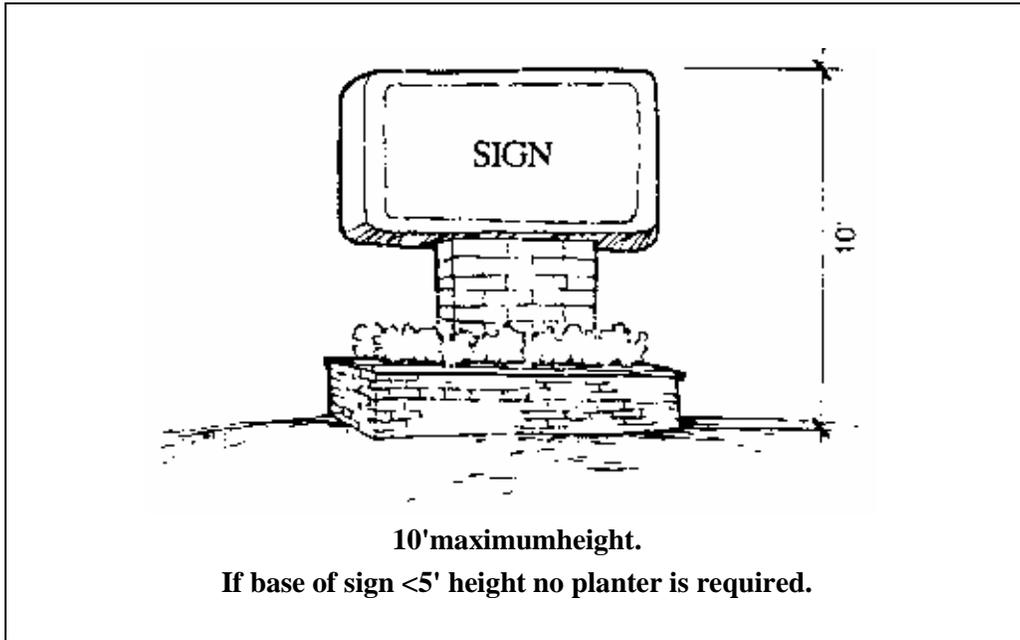
- (1) Awning, Canopy or Marquee Sign: A sign that is mounted on, painted on, or attached to, an awning, canopy or marquee. No such signs shall project above, below or beyond the awning, canopy or marquee.

Figure 1 – Canopy Sign



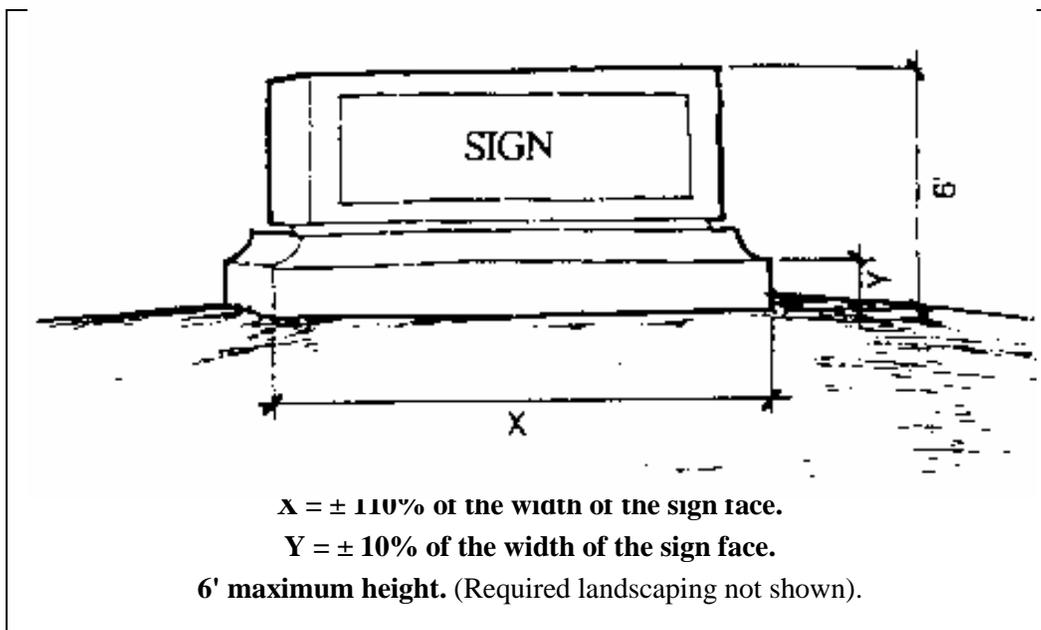
- (2) Ground Sign: Any sign placed upon, or supported by, the ground independent of the principal structure on the property, where the bottom edge of the sign is less than six feet above the ground, and the base is no less than 50 percent of the width of the face of the sign, presenting a monolithic structure.

Figure 2 - Ground Sign



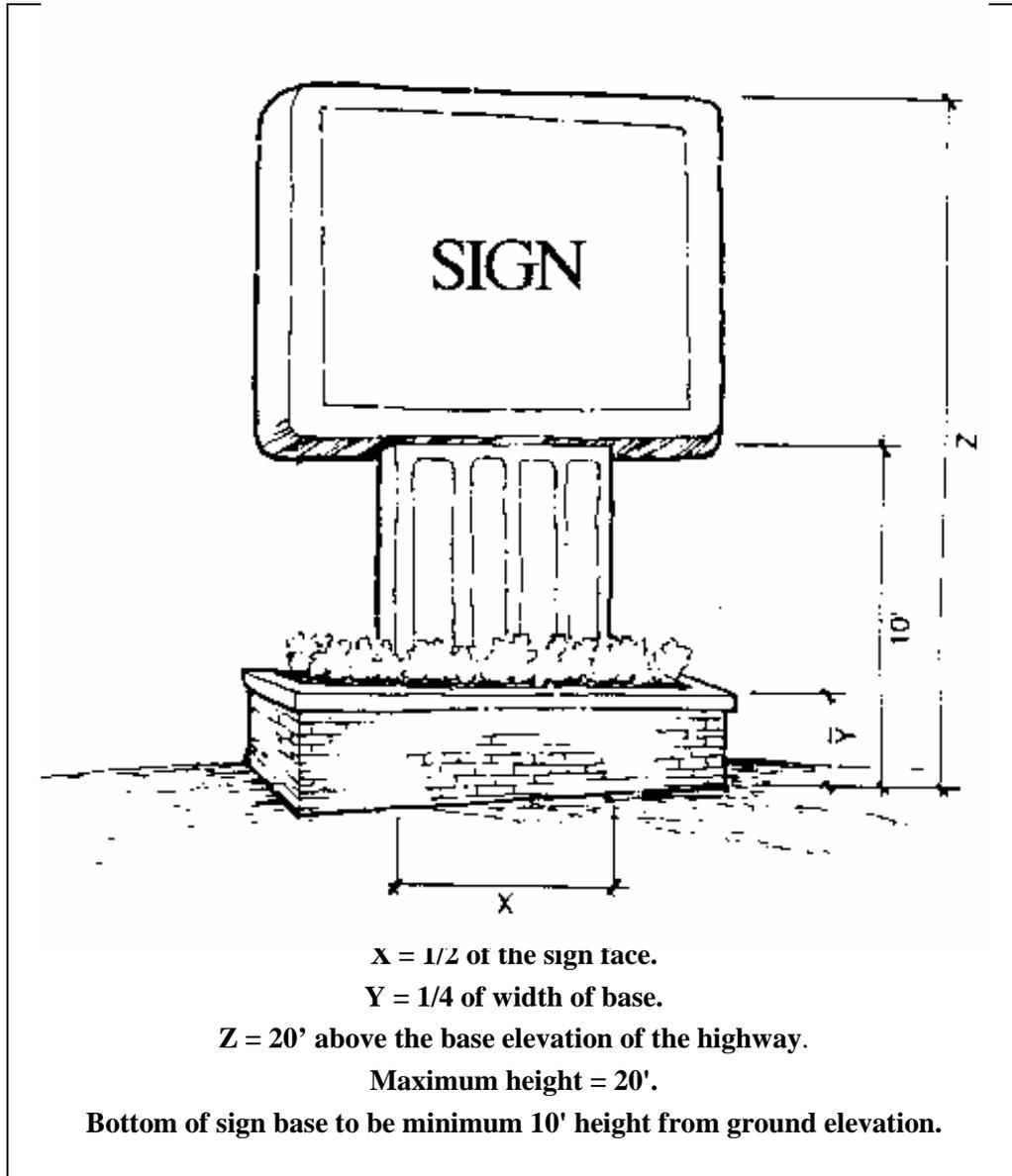
- (3) Monument Sign: Any sign whose base is greater in width than the face of the sign, and whose height is no greater than 6 feet.

Figure 3 - Monument Sign



- (4) Elevated Sign: Any sign placed upon, or supported by, the ground independent of the principal structure on the property where the bottom edge of the sign is ten feet or more above the ground level.

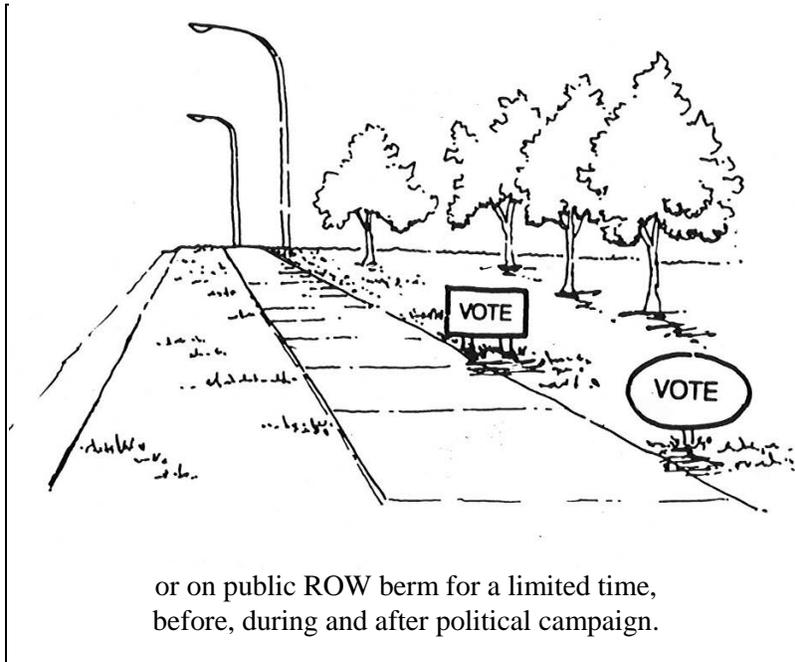
Figure 4 - Elevated Sign



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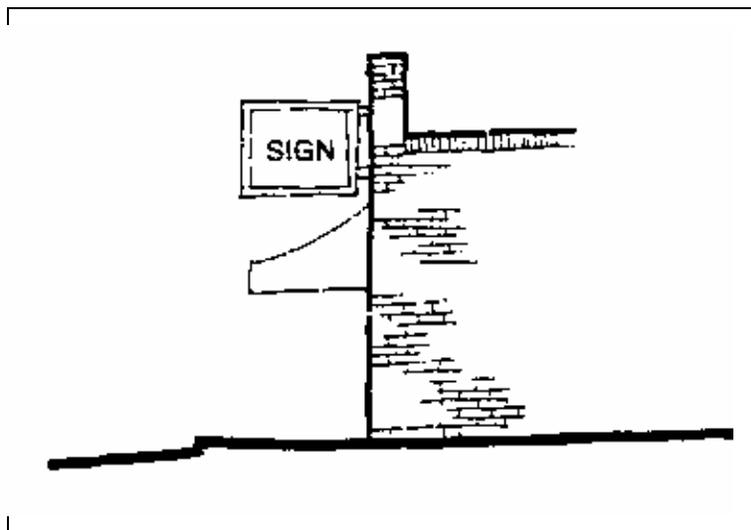
- (5) Political Campaign Sign: Any sign relating to a candidate, political party, ballot issue, or other issue to be voted on in any public election.

Figure 5 – Political Campaign Sign



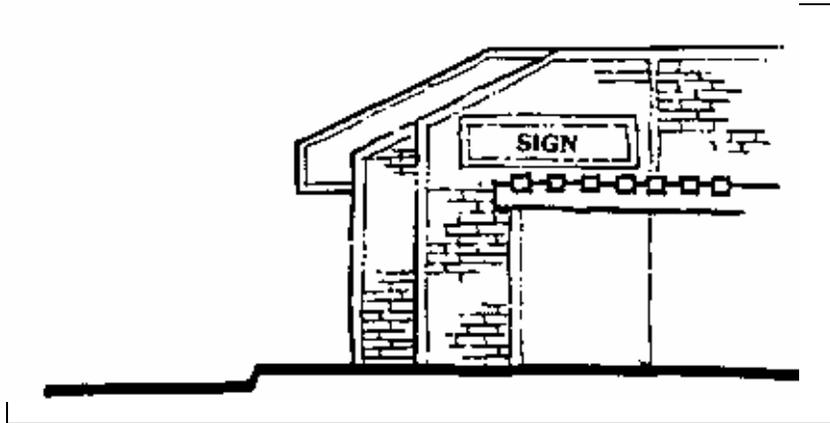
- (6) Projecting Sign: A sign that is wholly or partly dependent upon a structure for support and which projects more than 12 inches from such structure.

Figure 6 - Projecting Sign



- (7) Wall Sign: A sign fastened to or painted on a wall of a structure in such a manner that the wall becomes merely the supporting structure or forms the background surface, and which does not project more than 12 inches from such structure.

Figure 7 - Wall Sign



- (8) Temporary Freestanding Sign: A sign that is intended to be easily moved and that is not permanently affixed to a structure or the ground, including but not limited to a-frame, t-frame and sandwich-board signs. Banners on t-posts are not included in this definition.

Figure 8 - Temporary Freestanding Sign



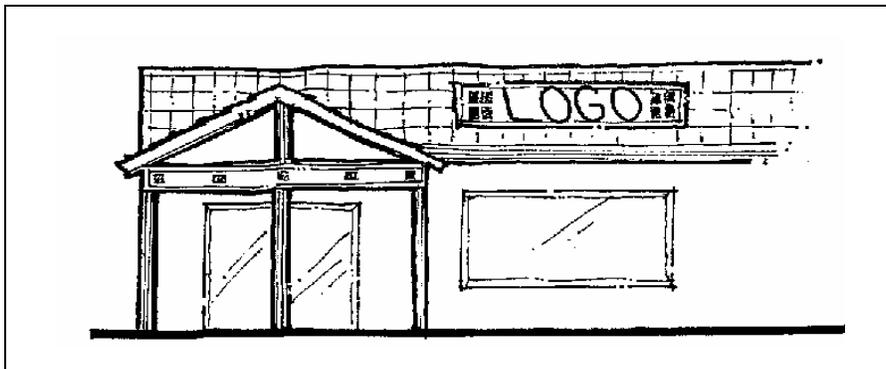
- (9) Portable Display Sign: A movable display, capable of relocation, under its own power, or towed by a motor vehicle. The display message of the sign may be painted or non-painted and capable of being readily altered. Portable display signs may be with or without electrical illumination, power or wheels.

Figure 9 - Portable Display Sign



- (10) Flush-Mounted Logo Roof Sign: A sign totally supported on the roof of a structure that displays the logo of the tenant of such structure. Flush-mounted logo roof signs shall be mounted parallel to and flush with the roof's surface. In no case shall a flush-mounted logo roof sign project above the highest point of the roof (compare to "elevated/projecting roof sign").

Figure 10 - Roof Sign Logo Flush-Mounted



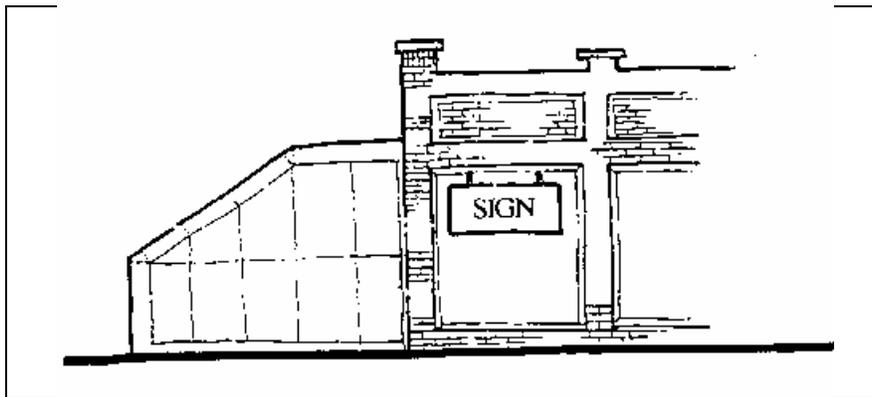
- (11) Elevated/Projecting Roof Sign: A sign totally supported on the roof of a structure, not including flush-mounted logo roof signs. Elevated/projecting roof signs shall not project more than 12 inches beyond the face of the structure. In no case shall an elevated/projecting roof sign project more than 10 feet beyond the highest point of the portion of the roof on which the sign is located (compare to "flush-mounted logo roof sign").

Figure 11 – Elevated Projecting Roof Sign



- (12) Window Sign: Any sign, pictures, symbol, or combination thereof, designed to communicate information about an activity, business, commodity, event, sale, or service that is placed inside a window or upon the window panes and is visible from the exterior of the window.

Figure 12 - Window Sign



5. General Standards:

- A. Gross Area of Sign: Gross area shall include the entire area within a single continuous perimeter enclosing the extreme limits of the sign, exclusive of the base on which it is mounted or from which it is suspended. If more than one side of a sign is utilized as a sign, then only the largest side shall be computed and shall be counted as a portion of the gross area. On lots where more than one sign

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is located, the total gross area of all the signs shall not exceed the maximum gross area for one sign permitted by this regulation. For computing the gross area of any wall sign that consists of letters mounted or painted on a wall, the area shall be deemed to be the area of the smallest rectangular figure that can encompass all of the letters.

- B. **Sign Height:** Sign height shall be measured from the ground elevation at the base of the sign to the highest element of the sign.
- C. **Illuminated Signs:** A sign designed to give forth artificial light or designed to reflect light derived from any source.
- D. **Time/Temperature Signs:** A sign that displays the current time and/or temperature by use of intermittent lighting shall limit the lighting changes to text indicating time and/or temperature.
- E. **Animated Signs:** Electronic animated signs may be permitted as a component of a sign in conjunction with a primary use on the property where the sign is placed. Electronic message panels and animation shall be permitted only where they convey changing information directly related to the use of the principal structure on the premises. The applicant may propose, and the City may condition its approval to require operational limitations, such as hours of operation, mode of operation, brightness or frequency of display change, and other matters related to the health, safety and welfare of the public. No electronic message panel shall be permitted unless the Governing Body determines that the following conditions will be met:
 - (1) The message area of the panel must be oriented toward a local thoroughfare street or highway, shall be no greater than and shall not be readily visible from any existing residence within a 300-foot radius of the sign; and further, as measured at any lot line adjacent to a residential district, shall not exceed 0.1 foot candles.
 - (2) The mode of operation for the panel display shall be limited to the fade-in/fade-out mode where a message appears on the sign, is dissolved or turned off, and another message takes its place, not to exceed a change of message or animated image more than six per minute. The display area of the panel shall not be operated to attract the attention of viewers through flashing displays.
 - (3) The proposed message panel will not degrade traffic safety given its size, height, color, brightness, mode of operation and its relationship to surrounding traffic patterns, speeds and roadway geometrics.
 - (4) The proposed message panel shall be designed as an integral part of a larger sign package for the principal land use of the parcel.

- (5) No portion of the animation or electronic message panel shall exceed the height limit for the sign in the subject district, or 20 feet in height above the average elevation of the surrounding grade, whichever is less.
- (6) Animated signs permitted by the provisions of this section shall comply with all other sign requirements.

F. Accessway or Window: No sign shall block any required accessway or window.

G. Signs on Trees or Utility Poles: No sign shall be attached to any utility pole or tree.

H. Traffic Safety:

- (1) No sign shall be maintained at any location where by reason of its position, size, shape or color, it may obstruct, impair, obscure, interfere with the view of, or be confused with any traffic or railroad control sign, signal or device, or where it may interfere with, mislead, or confuse traffic.

- (1) Any sign located within three (3) feet of a driveway or within a parking area shall have its lowest elevation at least ten feet above the curb level, however, in no event shall any sign, other than campaign signs, be placed so as to project over any public right-of-way.

- (2) No sign, other than political campaign signs shall be placed within or project over any public right-of-way, unless excepted by the Planning Commission following consideration and determination of conformance with the following criteria:

- (a) In an instance where more right-of-way exists than required by the Subdivision Regulations and/or the Comprehensive Plan, the Planning Commission may allow signs by exception in the right-of-way. In no case shall any sign to be placed closer than the minimum "required" right-of-way. In no case shall a sign be located so as to interfere with public infrastructure or other public improvements.

- (b) The City maintains the right to remove or relocate any sign within the right-of-way as may be necessary to maintain, improve or expand infrastructure and other public improvements within the existing right-of-way. Removal, relocation or other necessary action shall be at the expense of the developer, property owner, building owner and/or association responsible for the sign or to which the sign is associated.

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(3) No sign may be placed in a sight triangle as defined by this regulation.

I. Lineal Street Frontage: In those districts where gross sign area is allocated based on lineal street frontage and the tract or parcel is adjacent to more than one street, the lineal street frontage shall be computed as follows:

(1) For those tracts or parcels located on major streets as designated in the Major Street Plan of the Comprehensive Plan, the lineal street frontage shall be the distance of that property line abutting the major street.

(2) For those tracts or parcels not located on a major street, the lineal street frontage shall be one-half the sum of all the street frontages.

J. Landscaping: Ground signs, monument signs and elevated signs shall be landscaped as approved on the Master Signage Plan. The landscaping shall extend no less than three feet from the base of the sign, and in the case of ground signs and monument signs, shall be incorporated within a decorative planter as shown on the illustrative figures in these regulations.

6. Exemptions:

A. Total Exemptions: The following signs shall be exempt from the requirements of this article, except for the provisions of Sections 3(A) through 3(H) above:

(1) Flags or emblems of a government or of a political, civic, philanthropic, educational or religious organization, displayed on private property.

(2) Signs of a duly constituted governmental body, including traffic or similar regulatory signs, legal notices, warnings at railroad crossings and other instructional or regulatory signs having to do with health, safety, parking, swimming, dumping, etc.

(3) Memorial signs and tables displayed on public or private property.

(4) Small signs, not exceeding three square feet in area, displayed on private property for the convenience of the public, including signs to identify entrance and exit drives, parking areas, one-way drives, restrooms, freight entrances, and other similar signs; except that such signs shall not display logos or other business advertisements.

(5) Scoreboards in athletic stadiums.

- (6) Political campaign signs displayed during no more than a four-week period preceding and a one-week period following a primary or general election. The City recognizes that the expression of political speech is an important and constitutionally protected right; that political election signs have certain characteristics that distinguish them from many of the other types of signs permitted and regulated by the City, including the fact that these signs generally do not meet the regular structural design of permanent signs, given their temporary nature; that political election signs therefore present a potential hazard to persons and property; and that the City must impose reasonable time limits on the display of political election signs for these reasons. Therefore, political campaign signs shall not be placed on or otherwise affixed to any public structure or sign, sidewalk, utility pole, street lamp post, tree or other vegetative matter, or any public park or other public property; except that, political signs may be placed in public rights-of-way with the permission of the abutting property owner (owner of abutting frontage).

- (7) Temporary signs for the sale of household goods at a residence (for example, garage sales or auctions) not to exceed six (6) square feet overall, nor four (4) feet in overall height. Garage Sale signs shall not be placed earlier than noon on the day before the sale and must be removed by the end of the sale. One sign may be erected at the location of the garage sale, and one other sign may be placed in the public street right-of-way no closer than five (5) feet from the road surface at an intersection with a collector or arterial street nearest the place of the sale with permission of the property owner, renter or lessee.

B. Exemptions from Sign Permit: The following signs are exempt from the sign permit section of this article, but shall comply with all of the other regulations imposed by this article:

- (1) Name plate signs not exceeding two square feet in gross area accessory to a single-family or two-family dwelling.

- (2) Bulletin board signs not exceeding 100 square feet in gross area accessory to a church, school or public or non-profit institution.

- (3) Business signs when located on property used for agricultural purposes and pertaining to the sale of agricultural products produced on the premises.

- (4) Real estate signs in residential district not exceeding eight (8) square feet in area; and, in commercial and industrial districts, not exceeding sixteen (16) square feet.

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(5) Construction signs not exceeding eight square feet in area, which signs shall be removed when the construction project is completed.

(6) Window signs not exceeding 25% of the window surface.

7. Prohibited Signs:

A. **Signs on Public Property:** Any sign installed or placed on public property, except in conformance with the requirements, shall be forfeited to the public and subject to confiscation, except that logo signs on public athletic fields shall be allowed. In addition to other remedies hereunder, the City shall have the right to recover from the owner or person placing such a sign the full costs of removal and disposal of such sign.

B. **Portable Display Signs,** with or without wheels attached, shall not be allowed.

C. **Attention Attracting Devices.**

8. Maintenance:

A. **Existing Sign Maintenance:** All signs shall be designed, constructed, and maintained in compliance with applicable provisions of the Building Code and the Electrical Code of the City. Except for banners, flags, temporary signs, and window signs conforming in all respects with the requirements of this regulation, all signs shall be constructed of permanent materials and shall be permanently attached to the ground or another structure by direct attachment to a rigid wall, frame, or structure.

B. **Removal of Unsafe or Illegal Signs:** If the enforcement agency shall find that any sign or other advertising structure regulated herein is unsafe or insecure, or is a menace to the public, or has been constructed or erected or is being maintained in violation of the provisions of this regulation, it shall give written notice to the permittee thereof. If the permittee fails to remove or alter the structure so as to comply with the standards herein set forth within ten days after such notice, such sign or other advertising structure may be removed or altered to comply by the enforcement agency at the expense of the permittee or owner of the property upon which it is located. The enforcement agency shall refuse to approve a permit to any permittee or owner who refuses to pay costs so assessed. The enforcement agency may cause any sign or other advertising structure that is an immediate peril to persons or property to be removed summarily and without notice.

C. **Sign Maintenance Enforcement:**

- (1) All signs within the City shall be maintained in a safe condition and in such a manner that they shall not become a visual detriment to the community at large. The designated official shall be charged with the responsibility and authority to inspect all signs within the City and direct the maintenance of said signs. Maintenance of signs is defined as keeping sign structures in a safe condition, free of rust, with broken glass or plastic replaced, electrical lights and other electrical operations in operable condition, letters and other sign components in the equivalent condition as on the sign permit or as approved.
- (2) Should the enforcement agency find a non-maintained sign as defined above, it shall cause the owner of said sign to be notified as to the deficiency and the corrective action that needs to be taken.
- (3) Should the owner fail to exhibit evidence of compliance within 30 days after the mailing of the letter of notification, the enforcement agency shall cause the owner to be cited for violation of this regulation.

D. **Painted Sign Maintenance:** The owner of any sign as defined and regulated by this regulation shall be required to have properly painted at least once every two (2) years all parts and supports of the sign, unless the same are galvanized or otherwise treated to prevent rust.

9. **Nonconforming Signs:** For the purpose of this section, a nonconforming sign shall be defined as a sign existing at the effective date of this regulation that could not be built under the terms of this regulation or under the terms of other City regulations. Signs that are nonconforming, as provided in this regulation, shall not be repaired, altered or moved unless it is made to comply with the provisions of this regulation. No alteration of nonconforming signs shall be undertaken without the issuance of a permit. No fee will be charged for the permit, provided the alterations do not substantially alter the basic design or concept of the sign.

10. **Removal of Nonconforming Signs:** Should any nonconforming sign be damaged by any means to an extent of more than 50 percent of its replacement cost at the time of damage, it shall not be reconstructed except in conformity with the provisions of these regulations.

A. **Removal of On-Site Nonconforming Signs:** All on-site nonconforming signs not otherwise prohibited by the provisions of these regulations shall be removed or shall be altered to conform to the provisions of this regulation (a) when the nature of the business conducted on the premises changes and the sign is changed or modified either in shape, size, or legend, or (b) when the name of the business changes and the sign is changed or modified either in shape, size, or legend.

B. **Removal of Signs upon Destruction of Principal Structures:** When a principal structure is destroyed or removed due to natural or man-made circumstances, all signs on the property shall

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be removed within 90 days, unless a building permit has been issued within said time period to replace the structure.

11. Office Parks, Shopping Centers and Planned Districts: In the case of a proposed office park, shopping center, or other grouping of three or more tenants or establishments (new or remodeled), the developer shall prepare and submit to the Planning Commission a master signage plan for all permanent exterior signs. Such plan shall set standards that shall run with all leases or sales of portions of the development. A full and accurate description of all signs shall be included indicating location, placement, materials, graphic design styles, type of illumination, etc. Final development plans shall not be approved until the Planning Commission has approved the sign standards. For purposes of this section the terms “shopping center, office park, or their groupings,” shall mean a project of one or more buildings that has been planned as an integrated unit or cluster of units on property under unified control or ownership. The sale, subdivision, or other partition of the site does not exempt the project or portions thereof from complying with these regulations.

- A. In the case of a “shopping center, office park or other grouping” which is occupied by more than one tenant, one monument sign or ground sign may be permitted in addition to the wall mounted signs, which sign shall depict only the name of the center or grouping of shops or offices.
- B. Where all tenants and/or property owners within a building or “shopping center, office park or other grouping” agree in writing, one tenant may, in lieu of the wall sign permitted, have one monument sign or ground sign depicting the business or product. The design and location of this sign shall be subject to approval of the Planning Commission.

Figure 13 - Sign Pattern

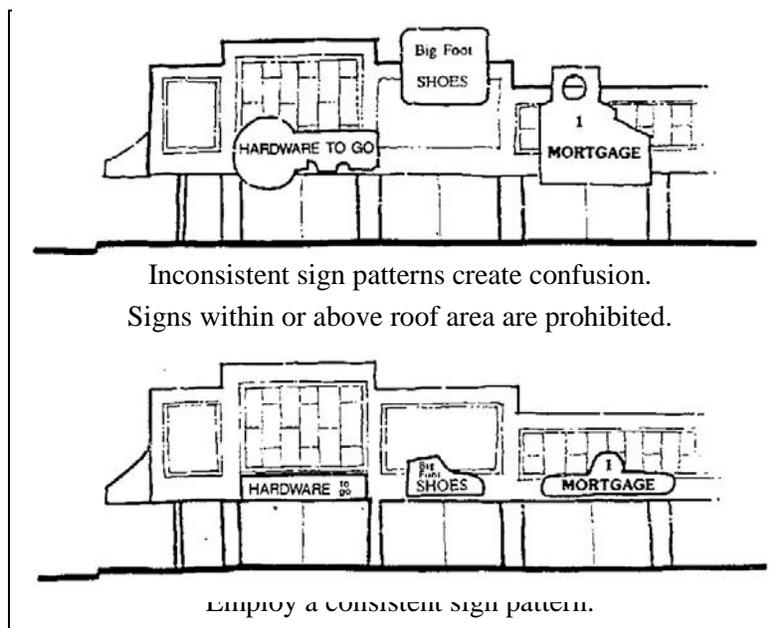
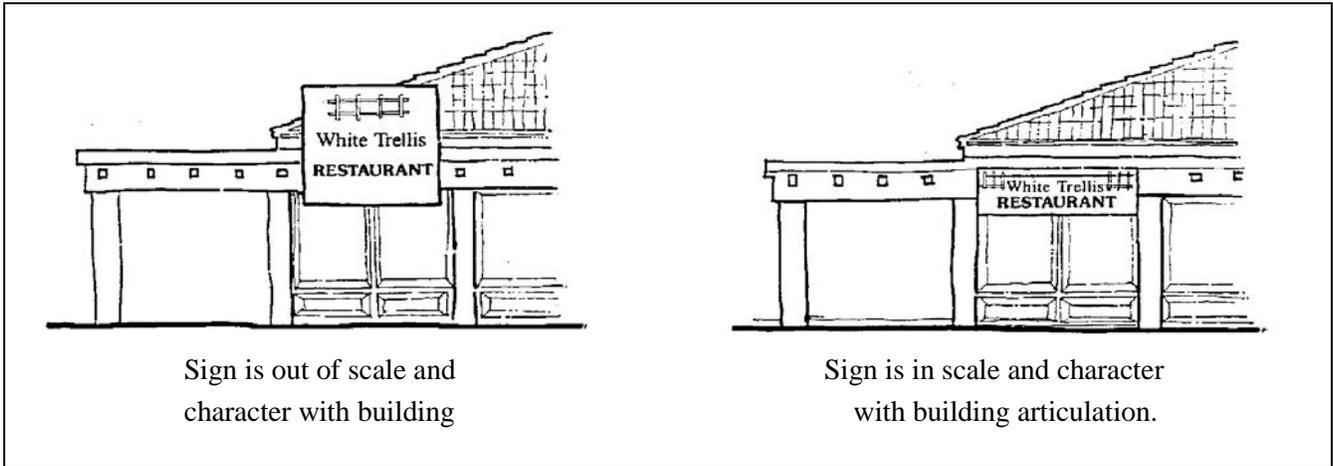


Figure 14 - Sign Scale and Character



12. District Regulations: The signs permitted in each district, and related regulations, are listed in **Appendix C, "Table of Signs Permitted by Zoning District."**

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ARTICLE 8 LANDSCAPING AND BUFFERING

1. General Requirements:

- A. Landscape Plans: Landscape plans shall be provided for Multifamily, Commercial and Industrial developments in accordance with the provisions of the Zoning Regulations.
- B. Site Design Criteria: Proposed landscape plans shall be reviewed for conformance to the standards of this section, the guidelines of the American Nursery and Landscape Association (ANLA) and the following general design principles:
 - (1) All elements of the site plan shall be arranged to create a safe, functional, convenient, healthful, durable and attractive living environment for residents, tenants, workers and occupants of properties; and protect utilities of public and quasi-public utilities from intrusion of plant growth by designing planting schemes with ornamental trees where plant growth would intrude onto such facilities.
 - (2) Environmental features and views shall be preserved to the greatest extent possible through proper site layout and design.
 - (3) Site grading shall be designed and implemented to retain as much existing tree cover as possible, make use of existing- natural drainageways, avoid increased runoff and erosion and provide buffering of objectionable noise and views. The land shall be contoured to transition smoothly and shall enhance the overall site design.
 - (4) Existing trees, shrubs and ground cover, which will contribute to the living environment, shall be preserved to the greatest extent possible.
 - (5) Extreme temperature, sunlight, wind and other climatic factors shall be moderated by appropriate site layout and design.
 - (6) Safe and convenient pedestrian and vehicular circulation shall be provided.
- C. Xeriscape Landscape Techniques: The City encourages the use of Xeriscape landscape practices of the ANLA as a means of minimizing the need for supplemental watering. The following techniques are strongly encouraged:
 - (1) Using plant materials with lower moisture requirements (low water use);
 - (2) Selecting plants on the basis of specific slope, aspect, soil and microclimate conditions;

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- (3) Using native and adapted plant species, minimizing the amount of irrigated turf area, and planting and designing slopes to minimize runoff;
- (4) Separating irrigation zones according to plants, water requirements and using drip/trickle Irrigation systems to reduce evaporation;
- (5) Emphasizing soil improvement by conserving topsoil, deeply loosening soil and incorporating organic matter and amendments based on soil tests; and
- (6) Using mulch in planting areas to reduce weed growth, promote soil cooling and reduce evaporation.

2. Installation and Maintenance:

- A. Installation: All landscaping shall be installed according to sound nursery practices in a manner-designed to encourage vigorous growth. All landscape materials, living and non-living, shall be healthy and in place prior to issuance of final Occupancy Certificate. A temporary Occupancy Certificate may be issued prior to installation of required landscaping if written assurances and financial guarantees are submitted and accepted by the City. Planting will take place when planting season arrives.
- B. Maintenance: Trees, shrubs, fences, walls and other landscape features depicted on plans approved by the City shall be considered as elements of the project in the same manner as parking, building materials and other details are elements of the plan.

3. Landscape and Buffer Requirements: This section sets out the minimum landscaping and buffering requirements for new development within the City. Three different types of landscaping/buffering are described in this section: Open Space Landscaping, Parking Lot Landscaping and Right-of-Way and Transition Buffers.

- A. Exemptions: The following shall be exempt from the standards of this section:
 - (1) Single-Family: Single-Family dwelling (attached or detached) on its own lot. This shall not be construed as an exemption for a residential subdivision.
 - (2) Existing Development and Changes in Use: Improvements or repairs to existing development that do not result in an increase in floor area and changes in use that do not result in an increase in intensity.

- B. Open Space Landscaping: The Open Space Landscaping standards shall apply to dedicated open space in all development, with the exception of open space used for active recreation such uses as sports fields or other recreational uses otherwise paved or surfaced.
 - (1) Plan Units Required: At least three plant units shall be provided per each 1,000 square feet of lot area or fraction thereof.
 - (2) Location of Plant Units: Plant units required pursuant to this section shall be installed within the dedicated private or public open space.
- C. Parking Lot Landscaping: The Parking Lot Landscaping standards shall apply to all off-street parking areas containing more than five off-street parking spaces within 100 feet. They shall not apply to Vehicle/Equipment Storage lots or to Vehicle and Equipment Sales lots.
- D. Planting Areas in Parking Lots. The dimensions of planting areas shall be sufficient to protect plant materials for proper growth. Planting areas for trees shall be at least 8' wide, protected to prevent damage by vehicles and vehicle overhang.
- E. Outdoor Storage Screening in Business Districts: Outdoor business storage areas adjacent to residential districts shall be screened from view by privacy fences or walls with a minimum height of 6 feet in accordance with the fence regulations of this code. Non-opaque fencing, such as chain-link, may be used to satisfy the requirements of this section if sufficient plant material is provided to effectively screen the storage area from view. Decorative, non-opaque fencing, used in conjunction with a masonry wall, may be used to satisfy the requirements of this section if the Planning Commission determines that the intent of this section will be met.
 - (1) Service and Loading Areas: Service and loading areas shall be effectively screened from view of adjacent residential property by berms, fences, walls, and/or plant materials.
 - (2) Dumpster Enclosure and Improvements: The enclosure should be shielded on three sides by a wall or decorative fence and positioned in such a manner to shield the refuse bins from sight of any public thoroughfare or adjoining property. When decorative fence is used the corner post should be made of steel pipe with a 4 inch minimum diameter and filled with concrete.

4. Landscaping Material Standards:

- A. Sizes:
 - (1) Medium and Large Deciduous Trees: Medium and large deciduous trees planted to satisfy the standards of this section shall have a minimum caliper (diameter) of two inches, measured at a point that is at least six inches above ground level.

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- (2) Small Deciduous or Ornamental Trees: Small deciduous and ornamental trees planted to satisfy the standards of this section shall have a minimum height of four feet.
 - (3) Conifers: Conifers planted to satisfy the standards of this section shall have a minimum height of six feet.
 - (4) Upright Evergreens: Upright evergreens planted to satisfy the standards of this section shall have a minimum height of six feet.
 - (5) Shrubs (Deciduous and Conifer): Shrubs may be of a size determined by the applicant, unless otherwise indicated by other sections of this ordinance code. In no case shall the minimum container size for shrubs be less than one gallon.
 - (6) Ground Treatment: The ground area within required landscape areas shall receive appropriate landscape treatment and present a finished appearance and reasonably complete coverage upon planting. The following standards shall apply to the design of ground treatment:
 - (a) Ground Cover: Ground cover appropriate for the area may be planted in lieu of turf grass. Ground cover shall be a size and spacing to provide a minimum of 50 percent coverage after the first full growing season and complete coverage at maturity. Edging shall be provided for all ground cover.
 - (b) Mulch: Mulch shall be installed and maintained at a minimum depth of three inches on all planted areas except where ground cover plants are fully established. Mulch may be used as a permanent ground treatment in those landscape designs where ground cover or grass is inappropriate.
 - (c) Grass Seed and Sod: Turf areas shall be planted with species suitable as permanent lawns in the Osawatomie climate zone. Turf areas shall be sodded or seeded. In areas where grass seed is used complete coverage shall be provided after the first full growing season.
- B. Plant Quality: Plants installed to satisfy the requirements of this section shall conform to or exceed the plant quality standards of the most recent edition of American Standard for Nursery Stock, published by the American Association of Nurserymen. Plants shall be nursery grown and adapted to the local area.

ARTICLE 9 - NONCONFORMITIES

1. General: Nonconformities are defined as follows:
 - A. Nonconforming Lot of Record: An unimproved lot which is part of a recorded subdivision or a parcel of land, the deed to which was recorded prior to the adoption of these regulations, and neither said lot nor parcel complies with the lot width or area requirements for any permitted use in the district in which it is located.
 - B. Nonconforming Structure: An existing structure which does not comply with the height or yard requirements which are applicable to new structures in the zoning district in which it is located.
 - C. Nonconforming Use: An existing use of a structure or of land which does not comply with the use regulations applicable to new uses in the zoning district in which it is located.
 - D. Nonconforming Situation: An existing nonconformity allowed to continue or expand with conditions.

2. Nonconforming Lots of Record: The nonconforming lots of record may be developed, provided that:
 - A. Said lot is shown by a recorded plat or deed to have been owned separately and individually from adjoining tracts of land at a time when the creation of a lot of such size and width at such location would not have been prohibited by any zoning regulations, and
 - B. Said lot has remained in separate and individual ownership from adjoining tracts of land continuously during the entire time that the creation of such lot has been prohibited by the applicable zoning regulations, and
 - C. Said lot can meet all yard regulations for the district in which it is located, and
 - D. Said lot can meet minimum standards for sewage treatment.

3. Nonconforming Structures:
 - A. Authority to Continue: Any structure which is devoted to a use which is permitted in the zoning district in which it is located, but which is located on a lot which does not comply with the applicable intensity of use regulations and/or the applicable yard and height regulations, may be continued, so long as it remains otherwise lawful.

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- B. Enlargement, Repair, Alterations: Any nonconforming structure may be enlarged, maintained, repaired or remodeled; provided, however, no such enlargement, maintenance, repair or remodeling shall either create any additional nonconformity or increase the degree of existing nonconformity of all or any part of such structure; provided further, existing manufactured home parks not meeting the requirements of these regulations shall be declared nonconforming and shall not be permitted to add spaces or make any improvements inconsistent with the terms and conditions of these regulations.

- C. Damage or Destruction: In the event that any nonconforming structure is damaged or destroyed, by any means, to the extent of more than 60 percent of its appraised value, such structure shall not be restored unless it shall thereafter conform to the regulations for the zoning district in which it is located. When a structure is damaged to the extent of 60 percent or less, no repairs or restoration shall be made unless a building permit is obtained and restoration is actually begun within one year after the date of such partial destruction and is diligently pursued to completion.

- D. Moving: No nonconforming structure shall be moved in whole or in part for any distance whatever, to any other location on the same or any other lot unless the entire structure shall thereafter conform to the regulations of the zoning district in which it is located after being moved.

4. Nonconforming Uses:

- A. Authority to Continue: Any lawfully existing nonconforming use or part or all of a structure or any lawfully existing nonconforming use of land, not involving a structure or only involving a structure which is accessory of such use of land, may be continued, so long as otherwise lawful.

- B. Ordinary Repair and Maintenance:
 - (1) Normal maintenance and incidental repair, or replacement, installation or relocation of non-bearing walls, non-bearing partitions, fixtures, wiring or plumbing, may be performed on any structure that is devoted in whole or in part to a nonconforming use.

 - (2) Nothing in these regulations shall be deemed to prevent the strengthening or restoring to a safe condition of a structure in accordance with an order of a public official who is charged with protecting the public safety and who declares such structure to be unsafe and orders its restoration to a safe condition.

- C. Extension: A nonconforming use shall not be extended, expanded, enlarged, or increased in intensity. Such prohibited activities shall include, without being limited to:
- (1) Extension of such use to any structure or land area other than that occupied by such nonconforming use on the effective date of these regulations (or on the effective date of subsequent amendments hereto that cause such use to become nonconforming).
 - (2) Extension of such use within a structure to any portion of the floor area that was not occupied by such nonconforming use on the effective date of these regulations (or on the effective date of subsequent amendments hereto that cause such use to become nonconforming); provided, however, that such use may be extended throughout any part of such structure that was lawfully and manifestly designed or arranged for such use on such effective date.
- D. Enlargement: No structure that is devoted in whole or in part to a nonconforming use shall be enlarged or added to in any manner unless such structure and the use thereof shall thereafter conform to the regulations of the district in which it is located.
- E. Damage or Destruction: In the event that any structure that is devoted in whole or in part to a nonconforming use is damaged or destroyed, by any means, to the extent of more than 60 percent of its appraised value, such structure shall not be restored unless such structure and the use thereof shall thereafter conform to all regulations of the zoning district in which it is located. When such damage or destruction is 60 percent or less, no repairs or restoration shall be made unless a building permit is obtained, and restoration is actually begun within one year after the date of such partial destruction and is diligently pursued to completion.
- F. Moving: No structure that is devoted in whole or in part to a nonconforming use and no conforming use of land shall be moved in whole or in part for any distance whatever, to any other location on the same or any other lot, unless the entire structure and the use thereof or the use of land shall thereafter conform to all regulations of the zoning districts in which it is located after being so moved.
- G. Change in Use: If no structural alterations are made, any nonconforming use of a structure, or structure and premises, may as a special use be changed to another nonconforming use provided that the Board of Zoning Appeals either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the Board of Zoning Appeals may require appropriate conditions and safeguards in accordance with Section 8.2(c). Once a

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change is made to a more appropriate use, the use shall not be returned to the original use or a less appropriate use.

- H. Abandonment or Discontinuance: When a nonconforming use is discontinued or abandoned for a period of 12 consecutive months, such use shall not thereafter be reestablished or resumed, and any subsequent use or occupancy of such land shall comply with the regulations of the zoning district in which such land is located.
- I. Nonconforming Accessory Uses: No use that is accessory to a principal non-conforming use shall continue after such principal use shall cease or terminate.
- J. Nonconforming Residential Uses: Notwithstanding the provisions of Sections 8.4(C) and 8.4(D), any structure which is devoted to a residential use and which is located in a business or industrial district, may be remodeled, extended, expanded, and enlarged; provided that after any such remodeling, expansion or enlargement, such structure shall not be used to accommodate a greater number of dwelling or lodging units than such structure accommodated prior to any such work.
- K. Nonconforming Manufactured Home Parks: Existing manufactured home parks not meeting the requirements of these regulations shall be declared legal nonconforming uses and, if adding spaces or making improvements, shall expand only in conformance with these regulations.

5. Nonconforming Situations:

- A. Status of Existing Special Uses: Where a use exists at the effective date of these regulations and is permitted by these regulations only as a special use in the zoning district in which it is located, such use shall not be deemed to be a nonconforming use, but shall, without further action, be deemed a lawful conforming use in such zoning district. Such special use shall not be enlarged or expanded unless a special use application is approved as set out in these regulations.
- B. Status of Future Special Uses: Any use for which a special use permit has been issued, as provided in these regulations, shall not be deemed to be a nonconforming use, but shall, without further action, be deemed a lawful conforming use.
- C. Off-street Parking lots in Business Districts:
 - a. Repair and expansion: In the G-B District parking lots nonconforming to current surfacing requirements may be repaired if brought to at least as good as the original surfacing prior to adoption of these regulations; and gravel parking lots may be expanded with a gravel

surface up to 25 percent of their existing area provided that, violations of current access management standards must be brought into compliance.

- b. Reduction of Required Spaces: Parking lots for non-residential uses may be improved with fewer than the required spaces if it is determined that the size and shape of the lot to be built on is such that off-street parking provisions could not be complied with, and that the proposed use will not create undue traffic congestion in the adjacent streets.
- D. Nonconforming Fences and Walls: Any nonconforming fence or wall, not on a public right-of-way or public utility easement, may be replaced at its current location within 90 days of its vacation, provided that the replacement fence or wall:
- a. meets the current height and material requirements; and
 - b. does not violate sight triangle requirements of these regulations.

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ARTICLE 10 – SPECIAL USE PERMITS

1. General Considerations:

- A. Delegation of Power: The Governing Body is hereby authorized to decide whether special use permits shall be granted subject to the general and specific standards contained in the ordinance; to grant special use permits with such conditions or restrictions as are appropriate to protect the public interest and to secure compliance with these regulations; and to deny requests which fail to satisfy the standards and requirements contained herein and which are not in harmony with the purposes and interest of these regulations and the health, safety, and welfare of the community. The Governing Body shall decide whether special use permits shall be granted only after having received a recommendation from the Planning Commission. In no event shall a special use permit be granted where the proposed use is not authorized by the terms of these regulations, or where the standards of this article are not found to exist.
- B. Conditions and Guarantees: Prior to the granting of any special use permit, the Planning Commission or Governing Body may stipulate such conditions and restrictions upon the establishment, location, construction, maintenance and operation of the special use permit as is deemed necessary for the protection of the public interest and to secure compliance with the standards and conditions contained herein. In all cases in which a special use permit is granted, the Planning Commission may recommend or the Governing Body may require such evidence and guarantees as may be deemed necessary to ensure that the conditions stipulated are being, and will be, fully complied with.

2. Procedures

- A. Application: A written application for a special use permit shall be filed with the City's Codes Official and shall include a statement indicating the section of the ordinance under which the permit is sought, the grounds upon which it is requested, and sufficient evidence to show that the use will conform to the standards set forth. The application shall be accompanied by an area map and site plan of the subject property.
- B. Fees: Every application for a special use permit shall be subject to a filing fee as established by the Governing Body.
- C. Site Plan: All applicants for special use permit shall submit with their application copies of a development plan for the property in accordance with the City's Application and Review Schedule and the requirements of Article 11, Site Plan Review.

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- D. Hearing: Upon receipt of the formal application and all accompanying material, the Planning and Zoning Staff shall call a public hearing for the next scheduled meeting of the Planning Commission; provided, however, that notice must be published in a newspaper of general circulation at least 20 days prior to the date set for hearing. The Planning Commission shall submit a recommendation to the Governing Body within 30 days after the close of the public hearing.
 - E. Findings: In making a recommendation to the Governing Body, the Planning Commission shall specify the particular grounds relied upon and their relation to the proposed use and shall make affirmative findings that the proposed use conforms with the general standards set forth in this article. In no case shall an exception be granted if the proposed use will constitute a nuisance or a public health or safety hazard to adjacent properties or to the community at large.
 - F. Action by Governing Body: The Governing Body shall consider the Planning Commission's recommendation at the next regularly scheduled Governing Body meeting for which the agenda item can be docketed. The Governing Body shall consider the recommendation of the Planning Commission and act in accordance with the procedures for amending zoning district boundaries. If the Governing Body fails to act upon a recommendation within 120 days from the receipt thereof, the application shall be deemed to have been denied.
3. Standards for Issuance of Special Use Permits: Generally: Before any permit shall be granted, the Planning Commission shall make written findings certifying that adequate provision has been made for the following:
- A. The location and size of the proposed use in relation to the site and to adjacent sites and uses of property, and the nature and intensity of operations proposed thereon.
 - B. Accessibility of the property to police, fire, refuse collection and other municipal services; adequacy of ingress and egress to and within the site; traffic flow and control; and the adequacy of off-street parking and loading areas.
 - C. Utilities and services, including water, sewer, drainage, gas, and electricity, with particular reference to location, availability, capacity and compatibility.
 - D. The location, nature, and height of structures, walls, fences, and other improvements; their relation to adjacent property and uses; and the need for buffering or screening.
 - E. The adequacy of required yard and open space requirements and sign provisions.

F. The general compatibility with adjacent properties, other properties in the district, and the general safety, health, comfort and general welfare of the community.

4. Additional Conditions for Particular Special Uses. In granting a special use, the City may impose such conditions, safeguards and restrictions upon the premises to reduce or minimize any potential injurious effect of such special uses upon other property in the neighborhood, and to carry out the general purpose and intent of these regulations. The following additional conditions shall be requirements for the approval of the following special uses:

A. Day care centers in residences seeking special use permit approval in zoning districts permitting residences shall provide for the following:

- (1) One off-street parking space for each non-resident or non-family member employee, in addition to the two spaces per single-family unit required. The residential driveway is acceptable for this purpose.
- (2) If located on an arterial street, an off-street drop-off/pick-up area must be provided.
- (3) The requirements for accessory uses for the proposed day use are met.

B. Auto wrecking yards, junk yards, salvage yards, and scrap processing yards:

- (1) Shall be located at least 300 feet from a residential district zone.
- (2) The operation shall be conducted wholly within a noncombustible structure or within an area completely enclosed by a fence or wall at least six (6) feet high. The fence or wall shall be of uniform height, color and texture, and shall be maintained in good condition by the property owner. No scrap, junk or other salvaged materials shall be piled to exceed the height of this wall or fence.
- (3) No junk or salvaged material shall be loaded, unloaded or stored, either temporarily or permanently, outside the enclosed structure, fence or wall.
- (4) Burning of paper, trash, junk or other waste materials shall be permitted only after approval of the Fire Department, except when prohibited by the Kansas Department of Health and Environment.

C. Funeral, mortuary or crematory services shall be located on a collector or arterial street as shown on the Comprehensive Plan.

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- D. Travel trailer camps shall be permitted subject to the following conditions:
- (1) The site selected for travel trailer camp areas shall be well drained and primarily designed to provide space for short-term occupancy to the traveling public. Location of the site may not necessarily front on a major roadway or thoroughfare, but it shall be directly accessible to the major roadway by means of a private road or public road that it has frontage on. Short-term occupancy shall not exceed 30 days, except as approved by the Planning and Zoning Department.
 - (2) Minimum tract size shall be two (2) acres under single ownership.
 - (3) The maximum number of travel trailer spaces allowed within the permitted districts shall not be more than 20 per acre. Consideration shall be given to whether the camp and the density level are designed accordingly. The densities of overnight use may be higher than destination type since it primarily serves as a short stopping point while the destination type camp located at or near a scenic historical or outdoor recreational area provides for longer and extended stays of several days or weeks.
 - (4) Minimum width of a trailer space shall be 25 feet and it shall be so designed to provide space for parking both the trailer and towing vehicle off the roadway. No trailer unit shall be closer than ten feet to any other adjacent unit, structure or roadway, and all spaces shall have direct access to the roadway. No unit shall be placed closer than 30 feet to any of the development property lines, and the ten feet nearest the property line shall be permanently maintained as a sodded and/or landscaped area.
 - (5) A central office or convenience establishment with an attendant shall be provided within the trailer camp to register guests and provide service and supervision to the camp for camps in excess of five acres.
 - (6) The applicant for a travel trailer camp shall submit a development plan to the Planning Commission for approval. Such plan shall contain the information as required below and any other information the Board reasonably shall deem necessary to fully evaluate the proposed development. The applicant shall submit the information on a sheet size not to exceed 24" x 36" dimensions as a proposed development plan showing:
 - (a) General layout of development with dimensions, depths, number of spaces and related sanitation accommodations.
 - (b) Parking area location, sizes and capacity.

- (c) Ingress and egress points for the project.
 - (d) Use of structures.
 - (e) General layout of typical travel trailer space showing size of space and proposed improvements.
 - (f) Layout of roadway within the camp.
 - (g) Net density of proposed project, expressed in terms of units per acre.
 - (h) General landscaping plan indicating all new and retained plant material to be incorporated within the new development and layout of outdoor lighting system.
 - (i) Plan and method of sewage disposal and water supply.
 - (j) Location plan and number of proposed sanitary conveniences, including proposed toilets, washrooms, laundries and utility areas.
 - (k) The development shall provide a general refuse storage area or areas that shall be provided with a paved concrete surface and shall be enclosed to screen it from view.
- (7) The travel trailer camps shall be planned and constructed in accordance with the minimum standards as established in this section and as outlined below:
- (a) All parking areas and roadways shall be constructed and paved with a hard surface bituminous or concrete material.
 - (b) All camps shall be provided with general outdoor lighting with a minimum of 0.3-foot candles of general illumination.
 - (c) All yard areas and other open spaces not otherwise paved or occupied by structures shall be sodded and/or landscaped and shall be maintained.

E. Kennels-Breeding and Boarding:

- (1) The minimum lot size shall not be less than one acre.

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- (2) Kennel structures or runs shall be located no less than 25 feet to any property lines.
- (3) Kennel runs or open areas shall be screened around such areas or at the property lines to prevent the distraction or excitement of the dogs. Such screening may be mature, dense deciduous foliage (double row), solid masonry, brick, or stone wall, louvered wood, stockade, or chain link fence with aluminum strip intertwined or other equivalent fencing, providing a sight barrier to the dogs. Shall be either a solid or semi-solid fence or wall at least six feet, but not more than eight feet, high and having a density of not less than 80 percent per square foot.

F. Bed and Breakfast: The following requirements shall apply:

- (1) Two off-street parking spaces with one additional off-street parking space per lodging room shall be provided.
- (2) The structure shall contain no less than 2,000 square feet of habitable floor area, and shall comply with standards for minimum dwelling size as required in the “R-3” district for multifamily dwellings.

G. Echo Housing: A secondary residential dwelling for dependent members of the family residing in the principal dwelling on the same lot may be constructed in R-1, R-2 and C-B districts provided the following restrictions are met:

- (1) Nonconforming lots shall be re-platted to conform to current subdivision regulations.
- (2) The secondary residential dwelling shall be located in the established rear yard no less than ten (10) feet from the rear lot line and in conformance to side yard setbacks.
- (3) Where dwellings are held in separate fee simple ownership, easements shall be dedicated for separate utilities to be provided to each dwelling unit.
- (4) The architectural style of the secondary dwelling structure shall echo the architectural style and materials of the principal structure, to which it shall be subordinate in height and bulk.
- (5) Lot coverage shall not exceed 75 percent of the buildable lot area.
- (6) All structures shall meet or be brought up to current building code requirements.

- (7) A maximum of one off-street parking space with direct access to a public street via the existing driveway shall be provided for the secondary residence, which space may be located in the established front yard of the principal structure.

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ARTICLE 11 – SITE PLAN REVIEW

1. Intent: The City of Osawatomie recognizes that the very nature of land development creates potential for traffic congestion, overcrowding, adverse visual environmental impacts, and health problems. Also, the City strives to achieve the goal of promoting growth in Osawatomie, while stabilizing the established residential patterns of the area. The City seeks to ensure that any location that must accommodate intense urban use, shall be subject to Site Plan Review by the Planning Commission. Site Plan Reviews shall help ensure that the meaning and intent of the Zoning Regulations, and all portions thereof, are fully complied with.

The Site Plan Review regulates the development of structures and sites in a manner that considers the following concerns:

- A. The balancing of landowners' rights to use their land, with the corresponding rights of abutting and neighboring landowners to live without undue disturbances (e.g., noise, smoke, fumes, dust, odor, glare, stormwater runoff, etc.);
 - B. The convenience and safety of vehicular and pedestrian movement within the site, and in relation to adjacent areas or roads;
 - C. The adequacy of waste disposal methods and protection from pollution of surface or groundwater;
 - D. The protection of historic and natural environmental features on the site under review, and in adjacent areas; and
 - E. The stability of the built environment--particularly residential neighborhoods--by promoting urban development that is compatible with clearly identified natural resources.
2. Applicability: Applications for Certificates of Occupancy shall be subject to Site Plan Review for development proposals in the multifamily, business and industrial zoning districts in accordance with these regulations. Developments shall be encouraged foster compatibility among land uses in the City of Osawatomie.

Prior to application, a pre-application conference shall be held between the applicant and the Codes Official to discuss the site review requirement and to other site or application specific issues. The applicant is strongly encouraged to submit preliminary plans for initial review and comment at this time.

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Following application submittal, site plan reviews shall be performed by the Codes Official and designated city staff. Following review a recommendation of the staff shall be submitted to the Planning Commission for consideration and action. The Planning Commission shall perform their review at the next regularly scheduled meeting of the Planning Commission for which the item may be scheduled and shall adjourn and reconvene as is determined necessary.

The applicant may appeal a site plan review determination to the City Council for approval in the event that an applicant alleges that there is an error in any order, requirement, decision or determination made by the Planning Commission in the enforcement of Site Plan Review. The request for review by the City Council shall be accompanied by a complete description of the error(s) alleged.

3. Authority: Certificates of Occupancy shall not be issued for any use of land or proposed construction on a lot in the zoning districts in which Site Plan Review is applicable, unless Site Plan Review approval has been granted.

4. Submission Requirements: The Site Plan shall include the following data, details, and supporting plans which are found relevant to the proposal. The applicant shall make notations explaining the reasons for any omissions. Site Plans shall be prepared by a registered professional engineer, architect, land surveyor or landscape architect, or by a certified land planner at a scale of 1 inch equals 20 feet, on standard 24” x 36” sheets. Items required for submission include:
 - A. Name of the project, address, boundaries, date, north arrow and scale of the plan.

 - B. Name and address of the owner of record, developer, and seal of the engineer, architect or landscape architect.

 - C. Name and address of all owners of record of abutting parcels.

 - D. All existing lot lines, easements, and rights-of-way. Include area in acres or square feet, abutting land uses and structures.

 - E. The location and use of all existing and proposed structures within the development. Include all dimensions of height and floor area, and show all exterior entrances and all anticipated future additions and alterations. For developments in the “C-1” Central Business District (CBD), indicate design details to make new construction compatible with existing structures.

 - F. The location of all present and proposed public and private ways, parking areas, driveways, sidewalks, ramps, curbs and fences. Location, type, and screening details for all waste disposal containers shall also be shown.

- G. Location, height, intensity, and bulb type (e.g., fluorescent, sodium incandescent) of all external lighting fixtures. The direction of illumination and methods to eliminate glare onto adjoining properties must also be shown.
- H. The location, height, size, materials, and design of all proposed signage.
- I. A landscape plan per the requirements of these regulations.
- J. The location of all present and proposed utility systems including:
 - (1) sewerage system;
 - (2) water supply system;
 - (3) telephone, cable and electrical systems; and
 - (4) storm drainage system including existing and proposed drain lines, culverts, catch basins, headwalls, end walls, hydrants, manholes, and drainage swells.
- K. Plans to prevent the pollution of surface or groundwater, erosion of soil both during and after construction, excessive run-off, excessive raising or lowering of the water table, and flooding of other properties, as applicable.
- L. Existing and proposed topography shown at not more than two-foot contour intervals. All elevations shall refer to the United States Geodetic Survey (USGS) datum. If any portion of the parcel is within the 100-year flood plain, the area shall be shown, with base flood elevations; and the developer shall present plans for meeting Federal Emergency Management Agency (FEMA) requirements.
- M. Zoning district boundaries adjacent to the site's perimeter shall be drawn and identified on the plan.
- N. Traffic flow patterns within the site, entrances and exits, loading and unloading areas, curb cuts on the site and within 100 feet of the site. The City may require a detailed traffic study for mixed use and multi-tenant developments, or for developments in heavy traffic areas to include:
 - (1) The projected number of motor vehicle trips to enter or leave the site, estimated for daily and peak hour traffic levels;

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- (2) The projected traffic flow pattern including vehicular movements at all major intersections likely to be affected by the proposed use of the site; and
 - (3) The impact of this traffic upon existing abutting public and private ways in relation to existing road capacities. Existing and proposed daily and peak hour traffic levels, as well as road capacity levels, shall also be given.
- O. For new construction or alterations to any existing structure, a table containing the following information must be included:
- (1) Area of structure to be used for a particular use, such as retail operation, office, storage, etc.;
 - (2) Maximum number of employees;
 - (3) Maximum seating capacity, where applicable; and
 - (4) Number of parking spaces existing and required for the intended use.
5. Standard of Review: The site plan recommendations of the planning and zoning staff shall be based on the following standards:
- A. The extent to which the site plan conforms to the relevant sections of these regulations.
 - B. The extent to which the site plan conforms to the provisions of the City's Subdivision Regulations.
 - C. The extent to which the site plan conforms to customary engineering standards used in the City.
 - D. The extent to which the location of streets, paths, walkways, and driveways are located so as to enhance safety and minimize any adverse traffic impact on the surrounding area.

ARTICLE 12 – BOARD OF ZONING APPEALS

1. Formation: The word “Board” when used in this article shall mean Board of Zoning Appeals. The Board shall adopt rules of procedure as may be necessary and proper to govern its own proceedings; such rules shall not be in conflict with other laws, regulations or ordinances. Meetings of the Board shall be held at the call of the Chairman and at such other times as the Board may determine. The Board shall keep minutes of its proceedings, showing the description of evidence presented, the findings of fact by the Board, the decision of the Board, and the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be filed in the office of the City Clerk and shall be public record.
2. Powers and Jurisdiction: The Board shall have the following powers and jurisdictions:
 - A. Appeals: To hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by the Codes Official in the enforcement of these regulations.
 - (1) Appeals to the Board may be taken by the person aggrieved, or by any officer, department, or bureau of the government affected by any decision of the Codes Official. Such appeal shall be filed with the Codes Official within a reasonable time, as shall be prescribed. The Codes Official shall forthwith transmit to the Secretary of the Board all papers constituting the record upon which the action appealed from is taken.
 - (2) An appeal stays all proceedings in furtherance of the action appealed from, unless the Codes Official certifies to the Board, after the Notice of Appeal shall have been filed with him, that by reason of facts stated in the certificate, a stay would, in his or her opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board, or by a court of record on application or notice to the Codes Official.
 - B. Variances: To authorize in specific cases a variance from the specific terms of these regulations which will not be contrary to the public interest and where, owing to special conditions, a literal enforcement of the provisions of these regulations will, in an individual case, result in unnecessary hardship, provided the spirit of these regulations shall be observed, public safety and welfare secured, and substantial justice done. Such variance shall not permit any use not permitted by the zoning regulations in such district.
 - (1) The applicant must show that his property was acquired in good faith and where by reason of exceptional narrowness, shallowness or shape of this specific piece of property at the time of the effective date of the District Zoning Regulations, or where by reasons of

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exceptional topographical conditions or other extraordinary or exceptional circumstances that the strict application of the terms of the zoning regulations actually prohibit the use of this property in the manner similar to that of other property in the zoning district where it is located.

- (2) Variances from these regulations may be granted only in the following instances:
 - (a) To vary the applicable lot area and width, height and yard regulations.
 - (b) To vary the applicable off-street parking and off-street loading requirements.
- (3) A request for a variance may be granted, upon a finding of the Board that all of the following conditions have been met. The Board shall make a determination on each condition, and the finding shall be entered in the record.
 - (a) The variance requested arises from such condition which is unique to the property in question and which is not ordinarily found in the same zone or district; and is not created by an action or actions of the property owner or applicant.
 - (b) The granting of the permit for the variance will not adversely affect the rights of adjacent property owners represented in the application.
 - (c) The strict application of the provisions of the zoning regulations of which the variance is requested will constitute unnecessary hardship upon the property owner represented in the application.
 - (d) The variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare.
 - (e) The granting of the variance desired will not be opposed to the general spirit and intent of the zoning regulations.
- (4) In granting a variance, the Board may impose such conditions, safeguards and restrictions upon the premises benefited by the variance as may be necessary to:
 - (a) reduce or minimize any potentially injurious effect of such variance upon other property in the neighborhood, and to carry out the general purpose and intent of these regulations; or

(b) accommodate rebuilding after a catastrophic loss if in no greater nonconformity than prior to the loss.

C. Granting a Substitution of a Nonconforming Use: The Board may grant such substitutions as provided in Article 9, Nonconformities.

D. Conditions of Determinations: In exercising the foregoing powers, the Board, in conformity with the provisions of this act, may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination, and to that end shall have all the powers of the officer from whom the appeal is taken, may attach appropriate conditions, and may issue or direct the issuance of a building permit. A majority of the Board shall constitute a quorum for the transaction of business, and a concurring vote of a majority of the entire Board shall be necessary to reverse any order, requirement, decision or determination of the Codes Official, or to decide in favor of the applicant upon any matter which it is required to pass under these regulations, or to affect any variation in such regulation.

3. Applications:

A. The procedure for requesting a hearing before the Board shall be as follows:

- (1) All applications to the Board shall be in writing on forms provided by the Board.
- (2) All applications shall be accompanied by an ownership list, obtained from county records, listing the legal description and the name and address of the owners of all property located within 200 feet of the boundaries of the property included in the application.
- (3) The Board shall fix a reasonable time for the hearing of an application, and notice of the time, place and subject of each hearing shall be published in the official newspaper (as designated by the Governing Body) at least 20 days prior to the date fixed for the public hearing. A copy of the notice of public hearing shall be sent to each party of interest, each person on the ownership list, and each Planning Commission member.
- (4) An application shall be accompanied by a filing fee as established by the Governing Body. A separate filing fee shall be required for each request.

A. In addition to the above requirements, certain applications require additional information as follows:

- (1) Appeals:

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- (a) An application for an appeal shall be filed within 60 days after a ruling has been made by the Codes Official.
- (b) A copy of the order, requirement, decision or determination of the Codes Official, which the applicant believes to be in error, shall be submitted.
- (c) A clear and accurate written description of the proposed use, work or action in which the appeal is involved and a statement justifying the appellant's position.
- (d) Where necessary, a plot plan, drawn to scale, in duplicate, showing existing and proposed plans for the area in question shall be submitted.

(2) Variances:

- (a) The applicant shall submit a statement, in writing, justifying the variance requested, indicating specifically the enforcement provisions of the zoning regulations from which the variance is requested, and outlining in detail the manner in which it is believed that this application will meet each of the five conditions as set out in Section 2.B.(3) of this article.
- (b) The applicant shall submit a sketch, in duplicate, drawn to scale and showing the lot or lots included in the application, the structures existing thereon, and the structures contemplated necessitating the variance requested. All appropriate dimensions and any other information that would be helpful to the Board in consideration of the application should be included.

4. **Performance:** In making any decision varying or modifying any provision of the zoning regulations or in granting a variance from the district regulations, the Board shall impose such restrictions, terms, time limitations, landscaping, screening, and other appropriate safeguards as needed to protect adjoining property. The Board may require a performance bond to guarantee the installation of improvements, such as parking lot surfacing, landscaping etc. The amount of the bond shall be based on a general estimate of cost for the improvements as determined by the Board and shall be enforceable by or payable to the Governing Body in the sum equal to the cost of constructing the required improvements. In lieu of the performance bond requirement, the Board may specify a time limit for the completion of such required improvements and, in the event the improvements are not completed within the specified time, the Board may declare the granting of the application null and void after reconsideration.
5. **Who May Appeal From the Board Decision:** Any person, persons, department of the government, jointly or separately aggrieved by any decision of the Board may present to the District Court having jurisdiction, a

petition, duly verified, stating that such decision is illegal in whole or in part, specifying the grounds of the illegality and asking for relief therefrom. Such petition shall be presented to the Court within 30 days after the date of filing the decision of the Board in the office of the City Clerk.

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ARTICLE 13 - AMENDMENTS

1. Amendments to Change Zoning District Boundaries: The Osawatomie City Council from time to time may supplement, change or generally revise the boundaries or regulations contained in zoning regulations by amendment. A proposal for such amendment may be initiated by the Governing Body or the Planning Commission. If such proposed amendment is not a general revision of the existing regulations and affects specific property, the amendment may be initiated by application of the owner of property affected. Any such amendment, if in accordance with the adopted comprehensive plan, shall be presumed to be reasonable.
2. Public Hearing: All such proposed amendments first shall be submitted to the Planning Commission for recommendation. The Planning Commission shall hold a public hearing thereon, shall cause an accurate written summary to be made of the proceedings, and shall give notice in like manner as that required for recommendations on the original proposed zoning regulations. Such notice shall fix the time and place for such hearing and contain a statement regarding the proposed changes in regulations or restrictions or in the boundary or classification of any zone or district. If such proposed amendment is not a general revision of the existing regulations and affects specific property, the property shall be designated by legal description or a general description sufficient to identify the property under consideration.
3. Public Notice: In addition to such publication notice, written notice of such proposed amendment shall be mailed at least 20 days before the hearing to all owners of record of lands located within at least 200 feet of the area proposed to be altered. If the City proposes a zoning amendment to property located adjacent to or outside the City limits, the area of notification of the City's action shall be at least 1,000 feet in the unincorporated area. All notices shall include a statement that a complete legal description is available for public inspection and shall indicate where such information is available. When the notice has been properly addressed and deposited in the mail, failure of a party to receive such notice shall not invalidate any subsequent action taken by the Planning Commission or the Governing Body. Such notice is sufficient to permit the Planning Commission to recommend amendments to zoning regulations that affect only a portion of the land described in the notice or which give all or any part of the land described a zoning classification of lesser change than that set forth in the notice. At any public hearing held to consider a proposed rezoning, an opportunity shall be granted to interested parties to be heard.
4. Table of Lesser Zoning District Classification: The following Table of Lesser Zoning District Classification is for the use of the Planning Commission in determining when republication of an application for rezoning is required. This Table of Lesser Zoning District Classification designates which zoning classifications are lesser changes authorized within the published zoning classifications. The Planning Commission may modify, at its discretion, an application for rezoning to a particular district by recommending a rezoning to a district of greater restriction, as determined by the Table of Lesser Zoning District Classification.

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TABLE OF LESSER ZONING DISTRICT CLASSIFICATIONS	
Zoning District Requested	Lesser Zoning Districts
“AG” Agricultural	None
“R-1” Residential - Low Density	“AG” Agricultural
“R-2” Residential - Medium Density	R-1 and AG
“R-3” Residential - High Density	R-1, R-2
“M-H” Manufactured Home Park	R-1, R-2
“C-B” Central Business	None
“G-B” General Business	None
“I-1” Industrial	None
“I-2” Industrial	“I-1” Industrial
“POD” Planned Overlay District *	None
* Required if adjacent to or within 1,000 feet of the U.S. 169 Highway rights-of-way	

5. **Adoption:** The procedure for the consideration and adoption of a recommendation to amend zoning district boundaries shall be in the same manner as that required for the consideration and adoption of the original zoning regulations. A majority of the members of the Planning Commission present and voting at the hearing shall be required to recommend approval or denial of the amendment to the Governing Body. If the Planning Commission fails to make a recommendation on a rezoning request, the Planning Commission shall be deemed to have made a recommendation of disapproval. When the Planning Commission submits a recommendation of approval or disapproval of such amendment and the reasons therefore, the Governing Body may: (1) adopt such recommendation by ordinance; (2) override the Planning Commission's recommendation by a 2/3 majority vote of the membership of the Governing Body; or (3) return such recommendation to the Planning Commission with a statement specifying the basis for the Governing Body's failure to approve or disapprove.

6. **Return of Recommendation:** If the Governing Body returns the Planning Commission's recommendation, the Planning Commission, after considering the same, may resubmit its original recommendation giving the reasons therefore or submit a new and amended recommendation. Upon the receipt of such recommendation, the Governing Body, by a simple majority thereof, may adopt or may revise or amend and adopt such recommendation by the respective ordinance or it need take no further action thereon. If the Planning Commission fails to deliver its recommendation to the Governing Body following the Planning Commission's next regular meeting after receipt of the Governing Body's report, the Governing Body shall consider such course of inaction on the part of the Planning Commission as a resubmission of the original recommendation and proceed accordingly. The proposed rezoning shall become effective upon publication of the respective adopting ordinance or resolution.

7. **Applications:** Any party desiring any change in zoning district boundaries or regulations contained in this Zoning Ordinance, as to any lot, tract or area of land, shall file with the Planning and Zoning Department an application, and such application shall be accompanied by such data and information as prescribed in these

regulations, including a certified list, compiled by a registered land abstract agency, of property owners who are required to be notified of a public hearing as provided in these regulations.

8. Filing Fee: For the purpose of wholly or partially defraying the costs of the proceedings prescribed herein, including publication costs, the applicant, upon the filing of the application, shall pay to the City a fee in accordance with the City's Fee Resolution. Promptly upon the filing of any such application, the Codes Official shall refer the application to the Planning Commission for study and recommendation and shall report to the Governing Body concerning the nature of the application and that said application has been referred to the Planning Commission.
9. Adoption and Amendment of Comprehensive Plan by the Planning Commission: An affirmative vote of a majority of the entire membership of the Planning Commission shall be required for actions of the commission, unless otherwise prescribed by state law.
10. Comprehensive Plan: Upon the adoption or amendment of any such plan or part thereof by adoption of the appropriate resolution by the Planning Commission, a certified copy of the plan or part thereof, together with a written summary of the hearing thereon, shall be submitted to the Governing Body. No comprehensive plan, and no amendment thereto, shall be effective unless approved by the City Council of Osawatomie. An attested copy of the comprehensive plan and any amendments thereto shall be sent to all other taxing subdivisions in the planning area which request a copy of such plan.
11. Public Facilities and Improvements: Whenever the Planning Commission has adopted and certified the comprehensive plan for one or more major sections or functional subdivisions thereof, no public improvement, public facility or public utility of a type embraced within the recommendations of the comprehensive plan or portion thereof shall be constructed without first being submitted to and being approved by the Planning Commission as being in conformity with the plan. The Governing Body may override the plan and the recommendation of the Planning Commission. When the Planning Commission has reviewed a capital improvement program and found that specific public improvements, public facilities or utilities are consistent with the comprehensive plan, no further action is necessary.
12. Matters to be Considered: In order to recommend approval or disapproval of a proposed zoning district amendment, the Planning Commission shall determine whether the application is found to be generally compatible with surrounding development and suitable for development in the proposed district based upon the following considerations:
 - A. Character of the neighborhood.
 - B. Consistency with the comprehensive plan and ordinances of the City of Osawatomie.
 - C. Adequacy of public utilities and other needed public services.
 - D. Suitability of the uses to which the property has been restricted under its existing zoning.

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- E. Length of time property has remained vacant as zoned.
- F. Compatibility of the proposed district classification with nearby properties.

- G. The extent to which the zoning amendment may detrimentally affect nearby property.
- H. Whether the proposed amendment provides a disproportionately great loss to the individual land owners nearby relative to the public gain.

13. Protest: Regardless of whether or not the Planning Commission approves or disapproves a zoning amendment, if a protest against such amendment is filed in the office of the City Clerk within 14 days after the date of the conclusion of the public hearing pursuant to said publication notice, signed by the owners of record of 20 percent or more of any real property proposed to be rezoned or by the owners of record of 20 percent or more of the total area required to be notified of the proposed rezoning, excluding public streets and ways, located within or without the corporate limits of the City of Osawatomie, the ordinance adopting such amendment shall not be passed except by at least a three-fourths (3/4) vote of the members of the Governing Body.

14. Publication: If the Governing Body approves an application, it shall adopt an ordinance to that effect, but said request shall not become effective until its publication in the official City newspaper.

15. Official Zoning Map: If the official zoning map has been adopted by reference, the amending ordinance shall define the change or boundary as amended, shall order the official zoning map to be changed to reflect such amendment and shall amend the section of the ordinance incorporating the same and shall reincorporate such map as amended.

ARTICLE 14 - ADMINISTRATION

1. Legislative and Quasi-Judicial Regulation of Land Use: The City shall regulate land use as provided by K.S.A. 12-741, et. seq., and appoint a representative to the Planning Commission by City ordinance; which Planning Commission shall prepare and adopt bylaws for the conduct of their business, including adoption of a comprehensive plan and recommendations.

2. Office of the Codes Official:
 - A. Authorization: A Codes Official shall be responsible for the enforcement of these regulations. The City Manager shall appoint a Codes Official or shall assign the duties of the Codes Official to appropriate personnel.

 - B. Duties of the Codes Official: The Codes Official shall enforce these regulations by providing the following zoning enforcement services:
 - (1) Approve and issue all occupancy certificates and make and maintain records thereof.
 - (2) Conduct inspections of uses of land to determine compliance with the provisions of the zoning and subdivision regulations.
 - (3) Receive, file, and forward to the Board of Zoning Appeals the records in all appeals and all applications for variances, and to the Planning Commission all applications for special uses, Planned Overlay Districts and related zoning matters.

 - C. Duties of the City Clerk: The City Clerk shall administer these regulations by providing the following administrative services:
 - (1) Maintain permanent and current records of the zoning regulations including, but not limited to, all zoning maps, amendments, special uses, variances, appeals and applications therefore and records of hearing thereon.
 - (2) Maintain for distribution to the public a supply of copies of the zoning map or maps, the compiled text of the zoning regulations, and the rules of the Board of Zoning Appeals.

3. Zoning Application:
 - A. Submittal: All applications for any zoning action within the City shall be subject to the following:
 - (1) Applications shall be completed in their entirety, as specified in the application. If any item is felt by the applicant to be inapplicable to the proposed action, the applicant shall provide a written explanation of why such item is inapplicable and thus not completed;

 - (2) Applications are not deemed acceptable until all required items on the application are met or written explanation is submitted;

- B. **Occupancy Certificate Required When:** No occupancy certificate for a structure or addition thereto constructed, built, moved, remodeled or reconstructed after the effective date of these regulations shall be issued until such work has been completed and the premises inspected and certified by the office of the Codes Official to be in full and complete compliance with the plans and specifications upon which the building permit was issued. No occupancy certificate for a new use of any structure or land shall be issued until the premises have been inspected and certified by the office of the Codes Official to be in full and complete compliance with all the applicable regulations for the zoning district in which it is located.
- C. **Issuance of Occupancy Certificate:** An occupancy certificate shall be issued, or written notice shall be given to the applicant stating the reasons why a certificate cannot be issued, within ten days after the receipt of an application therefore, or after the office of the Codes Official is notified in writing that the structures or premises are ready for occupancy.
- D. **Certificates of Occupancy are deemed to be issued for:**
- (1) Any one single-family detached dwelling unit on an existing lot of record as of the effective date of this Ordinance, and
 - (2) Any addition of up to 1,000 square feet of impervious area for a single-family detached dwelling unit which exists as of the effective date of this Ordinance, and
 - (3) Any existing single-family dwelling unit which exists as of the effective date of this Ordinance, the construction or expansion of one or more accessory structures on the same lot or tract up to a cumulative footprint of 1,000 square feet.
- E. One copy of the plat or the plot plan shall be retained by the Codes Official as a public record.
5. **Period of Validity:** A Certificate of Occupancy shall become null and void six months after the date on which it is issued unless within such six-month period construction, structure, moving, remodeling or reconstruction of a structure is commenced or a use is commenced.
6. **Violation and Penalty:** The owner or agent of a structure or premises in or upon which a violation of any provision of this regulation has been committed or shall exist; or the lessee or tenant of an entire structure or entire premises in or upon which violation has been committed or shall exist; or the agent, architect, structure or premises in or upon which violation has been committed or shall exist, shall be punished by a fine not to exceed \$200.00 for each offense. Each and every day that such violation continues shall constitute a separate offense. In case any structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any structure or land is used in violation of this regulation, the appropriate authorities, in addition to other remedies, may institute injunction, mandamus or other appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction,

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alteration, conversion, maintenance of use, or to correct or abate such violation or to prevent the occupancy of said structure or land.

ARTICLE 15 – VIOLATIONS AND PENALTIES

1. Violations:

Any of the following shall be a violation of these Regulations and shall be subject to the enforcement remedies and penalties provided by this article and by other applicable law:

- A. Development of Use Without Permit or Approval: To engage in any development, use, construction, remodeling or other activity of any nature upon the land and improvements thereon subject to the jurisdiction of the City without all of the required permits, approvals, certificates and other forms of authorization required by the Zoning Regulations in order to conduct or engage in such activity.
- B. Development or use inconsistent with Permit or Approval: To engage in any development, use, construction, remodeling or other activity of any nature in any way inconsistent with the terms and conditions of any permit, approval, certificate or other form of authorization required in order to lawfully engage in such activity.
- C. Development or Use Inconsistent with Conditions: To violate, by act or omission, any terms, condition or qualification placed by the City upon a required permit, certificate, rezoning, plan approval or other form of authorization granted by the City to allow the use, development of other activity upon land or improvements thereon.
- D. Development of Use Inconsistent with Chapters: To erect, construct, reconstruct, remodel, alter, maintain any land in violation or contravention of any zoning, subdivision or general regulation of the Zoning Regulations or any amendment thereof.
- E. Making lot or yard nonconforming: To reduce or diminish any lot area so that the yards or open spaces shall be smaller than prescribed by these requirements or the final plat or plan.
- F. Increasing Use Intensity: To increase the intensity of use of any land or structure, except in accordance with the procedures and substantive requirements of the Zoning Regulations.
- G. Continuing Violation: To continue any of the above violations. Each day of a violation shall be considered a separate offense.
- H. Removing, defacing, obscuring Notice: To remove, deface or obscure any sign required by the Zoning Regulations or otherwise interfere with any notice required thereby.

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2. Enforcement and Remedies:

The City shall have the following remedies and enforcement powers:

- A. Withhold Permits or Approvals: The city may deny or withhold all permits, certificates, plan or plat approvals or other forms of authorization on any land or structure or improvements thereon upon which there is an uncorrected violation of a provision of this article or of a condition or qualification of a permit, certificate, approval or other authorization previously granted by the City. The City may, instead of withholding or denying an authorization, grant such authorization subject to the condition that the violation be corrected. The provisions of this subsection shall apply regardless of whether the current owner or applicant is responsible for the violation in questions.

- B. Revoke permits: The Codes Official may revoke a building permit or certificate of occupancy or initiate the revocation of any other permit or approval under these regulations upon a finding that:
 - (1) There is a departure from the plans, specifications or conditions as required under the terms of a particular permit, plan or other approval;

 - (2) That the same was procured by false representation or was issued by mistake; or

 - (3) That any of the provisions of this article are being violated.

- C. Notice of Revocation: Written notice of such revocation shall be mailed by U.S. mail to the owner, his or her agent or contractor of upon any person employed on the building or structure for which such permit was issued or shall be posted in a prominent location and thereafter, no such construction shall proceed. Upon revocation of a permit that was issued by mistake, the owner shall meet with the City to determine what respect a mistake was made. Where plans are in conflict with ordinances, regulations or other city requirements, the plans may be required to be altered to conform to all applicable ordinances, regulations or requirements. When a mistake has been made calculating the fee for a building permit, the proper fee will be charged.

- D. Stop Work: With or without revoking permits, the City may stop work on any building or structure on any land on which it has a good faith belief that there is an uncorrected violation of a provision of this article or of a permit or other form or authorization issued hereunder.

- E. Revoke Plan or other Approvals: Where the violation of this article involves a failure to comply with approved plans or conditions to which the approval of such plans was made subject, the Governing Body shall, upon notice to the applicant and after a hearing, revoke the plan or other approval or condition its continuance on strict compliance, the provision of security or such other conditions as the Governing Body may reasonable impose.
 - F. Injunctive Relief: The City may seek an injunction or other equitable relief to stop any violation of this article or of a permit, certificate or other form of authorization granted under the Zoning regulations.
 - G. Abatement: The City may seek a court order in the nature of mandamus, abatement or other action or proceeding to abate or remove a violation or to otherwise restore the premises in question to the condition in which they existed prior to the violation.
 - H. Misdemeanor Penalties: The City may seek such criminal or civil penalties as are provided by Kansas law for violation of this article or of any of the Zoning Regulations. Criminal penalties shall not exceed \$500.00 or imprisonment for not more than 6 months for each offense or both. For purposes of these penalties, each day’s violation shall constitute a separate offense.
 - I. Other Remedies: The City shall have such other remedies as are and as may be, from time to time, provided by Kansas law for the violation of zoning, subdivision or related provisions.
 - J. Remedies cumulative: These remedies shall be cumulative.
3. Enforcement Procedures:
- A. Notice: In the case of violations not involving continuing construction or development, or any emergency situation, the City shall give written notice of the nature of the violation to the owner, occupant, or agent of the property at the last known address.
 - B. Immediate Enforcement: If an authorized building or public officer makes a reasonable determination that an emergency situation exists in violation of this article, the City may immediately use the enforcement powers and remedies available to it under Section 2.B. of this article including, but not limited to, filing a complaint seeking criminal penalties.

Article 15 – Violations

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ARTICLE 16 – PLANNED OVERLAY DISTRICTS

1. **INTENT:** This district is established to provide a procedure and standards for permitting flexible site design in higher-intensity developments in the C-B and G-B zoning districts: for site plans in Downtown Osawatomie and in Business Districts in close proximity to U.S. 169 Highway. A Planned Overlay District (POD) is intended to allow variation from the strict literal provisions of this chapter, including, but not limited to, requirements relating to setbacks, height, floor area, dwelling type, lot area, width, depth, and yards; and certain more intense land uses on conditions. If a proposed development is approved by the City as a POD as provided in this section, then the dimensions of the POD as approved shall be deemed to be in compliance with all of the dimensional requirements of this chapter, including setbacks, height, floor area, floor area ratio, lot area, lot width, lot depth, and yards.
 - A. Application. PODs shall be voluntary or imposed by the City and is intended to result in a development in which the living or working environment is better than could otherwise have been achieved through strict enforcement of the dimensional requirements of other applicable sections of this chapter. A POD will not be permitted unless the landowner demonstrates that the development would be consistent with the spirit and intent of the city’s comprehensive plan, that the development would be consistent with the spirit and intent of this chapter, and that the development would tend to accomplish the following objectives for PODs:
 - (1) For any POD with a residential component, innovations to include within a single development a greater variety in type, design, and siting of dwellings to meet the growing demands for housing at various economic levels;
 - (2) Higher standards of site and building design through the use of trained and experienced land planners, architects, and landscape architects;
 - (3) An efficient use of land resulting in smaller networks of utilities and streets, hereby lowering housing costs and public investments;
 - (4) A development pattern in harmony with the objectives of the city’s comprehensive plan; and
 - (5) A more desirable environment than would be possible through the strict application of the zoning and subdivision regulations of the city.
 - B. Planned Overlay District – Use of District and District Notations:
 - (1) The Planned Overlay District must be used in conjunction with one of the other zoning districts, known as the underlying district. The requirements of the Planned Overlay District shall be in addition to the requirements of the underlying district, and the Planned Overlay District may modify one or more of the regulations of the underlying district pursuant to the procedures set forth in this section.

Article 16 – Planned Overlay Districts

- (2) A Planned Overlay District shall correspond to the underlying district based on the following notation:

(3) District	Planned District Equivalent
C-B (Central Business)	C-B POD (Planned Downtown Overlay)
G-B (General Business)	G-B POD (Planned General Business Overlay)

2. DEVELOPMENT PLAN APPLICATION CONTENTS AND SUBMISSION REQUIREMENT.

An application shall include the following:

A. An affidavit of ownership.

- (1) If an application is filed by an agent of a landowner, an affidavit of the landowner establishing the agent’s authorization to act on behalf of the landowner.
- (2) A document containing the name, address and telephone number of all persons preparing any technical studies, maps, drawings, and documents submitted with the development plan and accurate legal description of the property for which the application is submitted.
- (3) Technical studies that may be required by the city. Examples of technical studies that may be required shall include, but not be limited to, traffic studies, engineering studies, geologic or hydro-geologic studies, flood studies, environmental impact assessments, noise studies, or surface water management/drainage studies. Notwithstanding the fact that the consulting city engineer did not require submission of a technical study in support of an application, either the Planning Commission or the governing body may require the submission of a technical study prior to taking action on the application.
- (4) A statement regarding adequate public facilities and services for the proposed development and proof of having reviewed the development proposal with applicable officials regarding public services and facilities not supplied by the city, including as, electric utility, school, highway, and street and road officials.

B. Development Plan – Consideration:

- (1) **Planning Commission Hearing.** The Planning Commission shall hold a hearing to consider the development plan application. The recommendation of the Planning Commission on the development plan shall be forwarded to the governing body.
- (2) **Governing Body Hearing.** Following review and recommendation by the Planning Commission, the governing body shall review the application. The governing body may then approve, conditionally approve, or disapprove the development plan application. As a

condition of approval, the governing body may designate itself as the entity that shall review the final development plan.

- (3) **Criteria for Approval.** The Planning Commission and governing body shall use the applicable zoning ordinance regulations as a guide for review of the development plan. If the governing body imposes conditions or restrictions on a development plan, it may designate specific requirements that must be met before an applicant may submit a final development plan application.
- (4) **Final Development Plan.** No permit shall be issued until a final development plan is approved. A final development plan application may be conditioned on subdivision of a parcel or resubdivision of a platted lot or lots.
- (5) **Allowed Use Intensity.** In a Planned Overlay District, any use may be site-planned to higher-intensity uses than otherwise permitted on a parcel of land or contiguous parcels under single ownership within 1,000 feet of the U.S. 169 Highway right-of-way. Uses may be voluntarily restricted by the applicant, or restricted as a condition of approval of the preliminary or final development plan by the Planning Commission or governing body.
- (6) **Development Standards:** PODs for multifamily and business districts should provide for the following site features:
 - (a) Multifamily buildings shall be located to ensure the provision of adequate open space for outdoor living areas, facilities, services and amenities and to provide natural indoor light, air and privacy. All buildings, parking lots and other structures shall be located to integrate with the natural topography and to avoid deep cuts and fills, excessive foundation wall depth, unnecessary steps and steep access gradients.
 - (b) Careful consideration of durable materials, proportions, and shapes, emphasizing the importance of roofs as integral and embracing elements of the over-all design, is particularly important. Building rooftops shall have parapets concealing flat roofs and roof top equipment.
 - (c) Roof mounted equipment, including ventilators, and satellite dishes greater than 30” shall be screened from view or isolated so as not to be visible from ground level of any adjacent residentially zoned area. The appearance of roof screens shall be coordinated with the building to maintain a unified appearance.
 - (d) All electrical and mechanical equipment located adjacent to the building and visible from any adjacent residentially zoned area shall be screened from. Such screens and enclosures shall be treated as integral elements of the building’s appearance.
 - (e) All gas meters within front yards must be located within maximum 12” from face of building foundation.

Article 16 – Planned Overlay Districts

- (f) Loading docks, trash enclosures, outdoor storage and similar facilities and functions shall be incorporated into the overall design of the building and the landscaping so that the visual and acoustic impacts of these functions are reduced to as great an extent as possible and are out of view from adjacent properties and public street.
- (g) Exterior refuse shall be kept in an enclosed area large enough to contain a week of refuse and be contained in a refuse bin equipped with a lid. The number and location of the refuse bins shall be located on the site plans prior to approval and the capacity of each refuse bin shall be noted on the plans.

C. MINIMUM EXTERIOR BUILDING MATERIAL STANDARDS. To foster good building in the C-B zoning district in Downtown Osawatomie and for commercial development in close proximity to U.S. 169 Highway in the G-B, the following standards apply to PODs.

- (1) For commercial structures, a minimum of 30% of the street façade shall consist of one or more of the materials listed below; and for multifamily dwellings, a minimum of 75% of each exterior wall shall consist of the listed materials:
 - (a) Masonry: Masonry construction shall include all masonry construction which is composed of solid cavity faced or veneered-wall construction, or similar materials.
 - (i) Some material used for masonry construction may consist of granite, sandstone, slate, limestone, marble, or other hard and durable all-weather stone. Ashlar, cut stone, and dimensioned stone construction techniques are acceptable.
 - (ii) Brick material used for masonry construction shall be composed of hard fire (kiln fired) all-weather common brick or other all-weather facing brick.
 - (b) Stucco or approved gypsum concrete/plaster materials, dryvet, may be used with other masonry and architectural accents.
 - (c) Wood other than exposed plywood paneling shall not be more than 25% of total exterior wall.
- (2) Corrugated metal facades should be complemented with the use of masonry, whether brick, stone, stucco, or split-face block, especially along perimeter streets.
- (3) Concrete finish or precast concrete panel (tilt wall) should have exposed aggregate, hammered, sandblasted or covered with a cement-based acrylic coating.

- (4) Metal panels should have a depth of no less than one inch or a thickness less than U.S. Standard 26 gauge, unless otherwise excepted by the Planning Commission.
- (5) Screening and buffering should meet Landscaping and Buffering standard in the Supplementary District Regulations.

D. **DOWNTOWN DESIGN STANDARDS.** To foster appropriate Downtown infill and redevelopment, and foster reuse/redevelopment of underutilized real estate while protecting the historic aspects of Downtown Osawatomie, a POD shall be required of all new construction or substantial redevelopment in the C-B District. Each POD site plan shall provide for the following:

- (1) Building Requirements. Careful consideration of durable materials, proportions, and shapes, emphasizing the importance of roofs as integral and embracing elements of the over-all design, shall be provided through conformance with these minimum standards:
 - (a) Building roof tops shall have at least the following features:
 - (i) Parapets concealing flat roofs and roof top equipment; and
 - (ii) Overhanging eaves that reflect the design of neighboring structures.
 - (b) Roof mounted equipment, including ventilators and satellite dishes, shall be screened from view (100% opacity) or isolated to not be visible from ground level of any adjacent public street or residentially-zoned area. The appearance of roof screens shall be coordinated with the building to maintain a unified appearance.
 - (c) Electrical and mechanical equipment located adjacent to the building and visible from any adjacent public street shall be screened from view, which screens and enclosures shall be treated as integral elements of the building's appearance.
 - (d) The form and proportion of new buildings or redevelopment shall be consistent or compatible with the scale, form and proportion of existing downtown buildings.
 - (e) Masonry walls should be tuckpointed to match existing mortar color. Only one mortar color is allowed on each façade.
 - (f) Original ornamentation should be retained to the extent practicable.
 - (g) Masonry walls should not be covered with any siding material.
- (2) Storefronts and Windows: Storefronts and windows help identify not only the goods and services provided at a particular location, but also provide a distinction between commercial and residential buildings. The use of the following guidelines allows for identification of businesses as well as provide natural light:
 - (a) Existing wood storefronts should be repaired to their original design.

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- (b) If new construction occurs, the original design shall be followed if known.
 - (c) Storefronts shall be properly maintained and painted.
 - (d) Tinted/reflective glass, plexi-glass and reflective film should not be prohibited in the Downtown area. Glass block should only be permitted when it was utilized within the original design.
- (3) Doors: Doors provide the first impression for the public. Modest restoration may increase the amount of pedestrian traffic entering any given retail facility. To minimize the clutter on a beautiful door, only a business name and address should be located on the door.
- (a) Original wood doors should be removed, restored and replaced. Any new doors should follow the original design.
 - (b) Solid metal core doors should be prohibited.
 - (c) Screen and storm doors should be prohibited on all commercial facilities, unless one was utilized with the original design of the structure.
- (4) Lighting: Lighting on the front of a structure should not only light a sign and provide safety, but rather accent entries and detail features.
- (a) Lights should be located in unobtrusive locations and not detract from the beauty of the building.
 - (b) All conduits should be concealed.
 - (c) Wall signs should be lighted with an external source.
- (5) Awnings: Awnings provide patrons with protection from the elements, identify businesses and serve as a unifying theme or element in the Downtown District. While awnings are not required, if utilized, the following design criteria should be followed.
- (a) Awnings shall have a trapezoidal profile with closed ends.
 - (b) Facades with multiple tenants or entrances shall incorporate individual awnings per tenant or entrance.
 - (c) Multiple storefront buildings require same size and style and color of awning.

Downtown Development Graphics: The two graphics on the following page—one to show what not to do, and one showing preferred development and redevelopment—are presented here to help provide a visual guide for good urban design in Downtown Osawatomie with regard to front and rear façade treatments.



What Not to Do: Examples of inappropriate renovation include covering original facades with aluminum siding, boarding up of windows, inappropriate signage etc.



What To Do: Restoration of original facades with awnings and sensitive landscaping are in keeping with successful renovations in historic Downtown Osawatomie, helping to preserve and restore Main Street character to revitalize the streetscape.

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ARTICLE 17 – PERFORMANCE STANDARDS

1. INTENT:

The intent of Performance Standards is to guide site plan review of intense land uses that, because of physical attributes such as extraordinary height and bulk, require standards of review.

2. WIRELESS COMMUNICATION SYSTEMS: INTENT; DEFINITIONS.

The City of Osawatomie regulates broadcast systems, cellular, commercial mobile radio services, common carrier wireless access exchange services, enhanced specialized mobile radio, functionally equivalent services, personal communication services paging, personal wireless services, public service and emergency systems, specialized mobile radio, tower builder, unlicensed wireless services, and wireless cable system in the public interest. These regulations do not apply to amateur radio uses or private dispatch systems.

A. DEFINITIONS:

For the purpose of this section, certain terms or words used for Wireless Communication Systems shall be interpreted or defined as follows, unless the context clearly indicates otherwise:

Amateur Radio: Radio equipment and associated antennas or support structures operated for the purpose of receiving or transmitting communications by a radio station as described in Section 153(g) of Title 47 of the U.S. Code and which is operated under license by the FCC.

Antenna: A whip (omni-directional antenna), panel (direction antenna), disc (parabolic antenna) or similar device used for transmission and/or reception of radio frequency signals.

Antenna Array: More than one whip, panel, disc or similar device used for the same carrier at the same frequency.

Applicant: A person or entity with an application before the City of County for a permit for a wireless communication facility.

AGL (above ground level): The actual height of the wireless communication facility from the ground to the highest part of the mount or the antenna, whichever is higher.

Broadcast Systems: Wireless communication systems that are licensed for the broadcast of AM/FM radio or television.

Camouflage: To paint or mount a wireless communication facility in a manner that requires minimal changes to the host structure and hides the facility in the context of its surroundings on the host structure.

Carrier: A company licensed by the Federal Communications Commission (FCC) that provides wireless communication. A tower builder is not a carrier.

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Cellular: A personal wireless service capable of transmitting and receiving voice that operates in the 800 MHz spectrum.

Co-location: The use of a common wireless communication facility or common site by two or more carriers or by one carrier for more than one type of wireless communication technology and/or placement or two or more wireless communication facilities on adjacent properties.

Commercial Mobile Radio Services (CMRS): Per Section 704 of the Telecommunications Act of 1996, any of several wireless communication technologies using radio signals at various frequencies to send and receive voice, data and video. According to the FCC, these services are “functionally equivalent services.” Section 704 of the Telecommunications Act of 1996 prohibits unreasonable discrimination among functionally equivalent services.

Common Carrier Wireless Exchange Access Services: Services by which wireless communication is interconnected with wired communication infrastructure.

Conceal: To enclose a wireless communication facility within a natural or man-made feature resulting in the facility being either hidden from view or made part of the feature enclosing it.

Design: The appearance of wireless communication facilities as determined by selection of materials, colors, size, and shape.

Disguise: To design and construct a wireless communication facility to be an architectural feature of an existing or proposed structure in such a manner that the wireless communication facility not discernible from the remainder of the structure.

Elevation: The measurement of height above sea level. Also AMSL, or above mean sea level.

Enhanced Specialized Mobile Radio (ESMR): Private land mobile radio with telephone services.

Equipment Shelter: An enclosed structure, cabinet, shed, or box at the base of or in the general proximity of a support structure within which are housed the equipment for the wireless communication facility such as radios, batteries, and electrical equipment.

Federal Communications Commission (FCC): An independent federal agency charged with licensing and regulating wireless communication at the national level.

Functionally Equivalent Services: Cellular, PCS, Enhanced Specialized Mobile Radio, Specialized Mobile Radio and Paging. Section 704 of the Telecommunications Act of 1996 prohibits unreasonable discrimination among functionally equivalent services.

Guyed Tower: Any type of support structure that is supported in whole or in part by cables anchored to the ground or other surface.

Lattice Tower: A type of support structure that consists of an open network of braces forming a tower that is usually triangular or square in cross section.

Location: The area where a wireless communication facility is located or proposed to be located.

Modification: The changing of any portion of a wireless communication facility from its description in a previously approved permit. The FCC definitions for “modification” are different than local government rules.

Monopole: A type of support structure that consists of a vertical pole fixed into the ground and/or attached to a foundation.

PCS (Personal Communication Services): A personal wireless service capable of transmitting and receiving voice, data, text, and video messaging that operates in the 1850-1990 MHz range.

Paging: A personal wireless service that provides tone, text, and limited voice messaging that operates on several frequency ranges, usually in a limited geographic area.

Personal Wireless Services: Any personal wireless service defined in the Federal Telecommunications Act of 1996 which includes Federal Communications Commission (FCC) licensed commercial wireless telecommunications services including cellular, personal communications services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), paging and unlicensed wireless services, and common carrier wireless exchange access services.

Private Dispatch System: Wireless communication systems that are licensed to one user for exclusive use and not to be shared with, or leased to, other users.

Public Service and Emergency System: Wireless communication systems operated by or for a governmental agency for the delivery of emergency or other public services.

Radio Frequency (RF) Engineer: Someone with a background in electrical engineering or microwave engineering who specializes in the study of radio frequencies.

Radio Frequency Radiation (RFR): The propagation of electromagnetic waves through space.

Radio Frequency (RF) Signal: The actual beam or radio waves sent and received by a wireless communication facility. A signal is the deliberate product of a wireless communication facility. The RF emission is the byproduct.

Screening: Decorative fencing or other materials, evergreen vegetation, or landscaped earth berms constructed and maintained for the purpose of concealing a wireless communication facility from view.

Separation: The distance between one carrier’s antenna array and another carrier’s antenna array.

Site: That portion of a subject property where a wireless communication facility is to be placed. Any acceptable location may have several potential sites within it.

Siting: The method and form of placement of wireless communication facilities on a specific area of a subject property.

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Specialized Mobile Radio (SMR): A form of dispatch or two-way communication used by companies that rent space or time from an SMR carrier. Used primarily for delivery vans, truckers or taxis within a small, definable geographic area.

Support Structure: The structure or surface upon which antennas are mounted.

Roof-mounted. Mounted on the roof of a building.

Side-mounted. Mounted on the side of a building.

Ground-mounted. Mounted on the ground.

Structure-mounted. Mounted on a structure other than a building.

Tower: Generally used to describe all wireless communication facilities or sometimes is used to refer only to those wireless communication facilities at high elevations above grade. Also used as a modifier (e.g., tower builder) or when modified (e.g., lattice tower).

Tower Builder: A company or individual that builds or manages support structures for wireless communication facilities.

Unlicensed Wireless Services: Wireless communication services operating on public domain frequencies using duly authorized devices that do not require an FCC license for their sites.

Wireless Cable System: Wireless communication services that provide point-to-multipoint communication for the provision of voice, data, text, and video that operate in the 2.1 to 2.8 GHz ranges.

Wireless Communication: Comprehensive term describing the wireless services covered by the location/design guidelines of the Plan. Includes the following terms as defined herein: broadcast systems, cellular, commercial mobile radio services, common carrier wireless access exchange services, enhanced specialized mobile radio, functionally equivalent services, personal communication services paging, personal wireless services, public service and emergency systems, specialized mobile radio, tower builder, unlicensed wireless services, and wireless cable system. Does not include amateur radio or private dispatch system.

Wireless Communication Facility: Comprehensive term describing the facilities covered by the location/design guidelines of the Plan. Includes the following terms as defined herein: antenna, antenna array, equipment shelter, guyed tower, lattice tower, location, monopole, site, support structure, and tower.

B. Zoning Districts; Limitations.

The following wireless communication facilities are permitted by right in any zoning district, subject to the issuance of a building permit, if they conform to the Location/Design Guidelines in this section.

- (1) In non-residential zoning districts, new facilities that are concealed in or mounted on top of or the side of existing buildings (excluding single-family and duplex residences) and other structures, including support structures up to 20 feet above the building, or the maximum height permitted in the underlying zoning district, whichever is greater.

- (2) In any zoning district, modification and/or replacement of support structures (light poles, flag poles, electrical poles, private dispatch towers, etc.) that are not significantly more visible or intrusive, including cumulative height extensions of up to ten (ten) percent above the original structure height.

C. Uses Allowed by Special Use Permit and Location/Design Guidelines.

The following wireless communication facilities are allowed in non-residential zoning districts, only, after approval of a Special Use Permit to assure they conform to the following Location/Design Guidelines:

- (1) New or modified lattice towers no larger than 18 inches wide on any side up to 60 feet in height measured from grade.
- (2) New disguised ground-mounted facilities up to 85 feet in height.
- (3) New ground-mounted facilities up to 120 feet in height in any I Industrial District.
- (4) There shall be no nighttime lighting of or on wireless communication facilities except for aircraft warning lights or similar emergency warning lights required by applicable governmental agencies. No strobe lights shall be used. Lighting for security purposes should be permitted at the base of wireless communication facilities. Temporary lighting for nighttime repairs is permitted.
- (5) No signs shall be allowed on an antenna support structure other than those required by applicable governmental agencies.
- (6) Applicants shall demonstrate that:
 - i. there is no available space on existing or approved wireless communication facilities or other structures that can be utilized to meet the applicant’s communication needs; and,
 - ii. there is no other economically and technically feasible opportunity to modify or rebuild an existing structure on which the communication equipment may be located (a rebuilding opportunity will be considered economically feasible if the cost of rebuilding an existing facility is no more than the cost of building a new facility on a new site).

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D. ASSURANCE OF TENURE.

- (1) At the time of requesting Permit for a wireless communication facility, the owner of a proposed new undisguised ground-mounted wireless communication facility, and the owner of the land, if not the same, shall agree in writing that:
 - i. the support structure is designed, and the ground area is adequate or can be made adequate, to accommodate at least one (1) other carrier, if more than eighty (80) feet in height, and at least two (2) other carriers, if more than 100 feet in height;
 - ii. reasonable accommodations will be made to lease space on the facility to other carrier so as to avoid having a proliferation of support structures that are not full utilized; and,
 - iii. the owner(s) will make available in the future the opportunity for another party to pay the cost to modify or rebuild the structure to support additional communication equipment where economically and technically feasible. Lattice towers no larger than 18 inches on any side are excluded from the co-location requirements of subsection a) of this paragraph.

E. REMOVAL

- (1) The owner shall be responsible for the removal of unused facilities, including the uppermost 20% of support structures that are unused (except where removal of the uppermost 20% would require the removal of a lower portion the support structure that is in use, in which case the required removal will be raised to the next highest portion of the support structure not in use), within 60 days if the wireless communication facility, or a portion thereof, has been unused for 12 consecutive months. If such a facility or portion of a facility is not removed by the owner, then the City may employ all legal measures, including, if necessary, obtaining authorization from a court of competent jurisdiction, to remove it, and after removal may place a lien on the subject property for all direct and indirect costs incurred in its dismantling and disposal, including court costs and reasonable attorney fees. Under this paragraph, “owner” includes both the owner of the real property and the owner of the wireless communication facility, whether such ownership is divided or in the same person.
- (2) New support structures shall comply with county airport hazard area regulations for air safety.

- (3) All wireless communication facilities shall comply with all federal, state, and local rules and regulations. Wireless communication providers are particularly encouraged to seek the following new locations for new facilities:
- i. Mounted on top or the side of multistory buildings and other structures, appropriately concealed, screened, disguised or camouflaged.
 - ii. Existing poles in street rights of way, including telephone poles, electrical transmission and distribution poles, street lights, and traffic signal stanchions; on existing parking lot and athletic field/stadium light standards; and on modified or rebuilt poles that are substantially similar in appearance.
 - iii. On existing support structures, including those constructed for personal wireless services, AM/FM radio and television broadcast, school district microwave antennas and private dispatch systems.
 - iv. In wooded areas.
 - v. At certain City owned properties, where the size and nature of the use does not interfere with other functions and allows for compatible siting; these may include water towers, large park areas, sewer treatment plant sites and maintenance yards.

F. Submittal Requirements.

The following information shall be submitted at the time of filing an application for a building permit.

(1) General:

- i. Name/signatures of applicants, owners of land and/or facilities if different, and agents if any.
- ii. Written statement acknowledging and agreeing to the responsibilities under the zoning code (e.g. allowing co-location opportunities on the support structures and at ground level; allowing modification/rebuilding of support structures; removal upon abandonment, etc.).

(2) Siting and design:

- i. A one-inch-equals-200 feet vicinity plan, dimensioned and identifying existing buildings, trees, and other features within 200 feet of the wireless communication facility.

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- ii. A one-inch-equals-200 feet site plan, dimensioned.
- iii. Typical elevations of all facility elements, dimensioned.
- iv. Specification of all exterior materials and colors, with drawings, photos or samples as appropriate.
- v. Landscape/screening plan, with all materials and sizes specified.
- vi. Appearance shown by at least two photo-simulations for proposed facilities that do not adhere to the location/design guidelines or facilities located in designated visually/environmentally sensitivity locations.

1. WIND ENERGY CONVERSION SYSTEMS (WECS)

2. Purpose.

The City of Osawatomie regulates Wind Energy Conversion Systems (WECS) for the purpose of accommodating the development of wind power resources in the City while providing standards to protect the public health, safety and general welfare.

3. Definitions.

For the purpose of this section, and in addition to words defined in other sections of these regulations, certain terms or words used in this subsection of these regulations shall be interpreted or defined as follows, unless the context clearly indicates otherwise:

Facility Owner: the entity or entities having equity interest in the Wind Energy Conversion System, including their respective successors and assigns.

Hub Height: The distance from the base of the tower to the center of the hub to which rotors are connected.

Meteorological Tower: Temporary towers erected by WECS owner-applicants to measure wind speed and directions, as well as other data relevant to siting WECS. Meteorological towers do not include towers and equipment used by airports or similar structures to monitor weather conditions.

Operator: The entity responsible for the day-to-day operation and maintenance of the Wind Energy Facility.

Property line: The boundary line of the area over which the entity applying for a WECS permit has legal control for the purposes of installation of a WECS. This control may be attained through fee title ownership, easement, or other appropriate contractual relationship between the facility owner/developer and landowner.

Rotor diameter: The diameter of the circle described by the moving rotor blades.

Substations: Any electrical facility designed to convert electricity produced by wind turbines to a voltage greater than 35,000 V (35 KV) for interconnection with high voltage transmission lines.

Total height: The highest point, above ground level, reached by a rotor tip or any other part of the WECS.

Turbine Height: The distance measured from the surface of the tower foundation to the highest point of the turbine rotor plane.

Tower: Towers include vertical structures that support the electrical generator, rotor blades, or meteorological equipment.

Tower height: The total height of the WECS exclusive of the rotor blades.

Transmission Line: Those electrical power lines that carry voltages of at least 69,000 volts (69 KV) and are primarily used to carry electric energy over medium to long distances rather than directly

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interconnecting and supplying electric energy to retail customers. In a commercial WECS, a transmission line will carry electricity from the WECS substation to the point of interconnect (POI).

Wind Energy Conversion System (WECS): An electrical generating facility comprised of one or more wind turbines and accessory facilities, including but not limited to: power lines, transformers, substations and metrological towers, which operate by converting the kinetic energy of wind into electrical energy. The energy may be used on-site or distributed into the electrical grid. Categories of WECS are distinguished for regulatory purposes as follows:

1. Micro-WECS: A WECS of up to 10.0 kW nameplate generating capacity or less and utilizing supporting towers of 60 feet or less.
2. Commercial-WECS: A WECS of more than 10.0 kW and less than 100 kW in total nameplate generating Capacity.
3. Large-capacity Commercial-WECS: A WECS greater than 100 kW in total nameplate generating capacity.
4. Alternative-WECS: A WECS other than a standard turbine-mounted propeller-type blade system, such as a vertical axis or a horizontal axis wind conversion system, a helix wind turbine, or similar alternative design.

Wind Energy Facility: a WECS.

Wind Turbine (or Turbine): Any piece of electrical generating equipment that converts the kinetic energy of wind into electrical energy through the use of airfoils or similar devices to capture the wind, and includes the nacelle, rotor, tower, and pad transformer, if any.

4. Applicability. CIRCUMSTANCES REQUIRING APPLICATION OF THE WECS REGULATIONS.

- (1) No WECS shall be considered for a building permit without first being granted approval by the City for a Special Use Permit (UPUR) as provided in this Section; except that, the regulations in this Section shall not apply to:
 - a. Large-capacity Commercial-WECS, which shall be prohibited within the City corporate limits; and
 - b. A subdivision or re-subdivision of land, or a lot split for a micro-WECS that meets all other requirements of these regulations, which may be approved administratively.
- (2) Any physical modification to a permitted WECS that materially alters the size, type and number of Wind Turbines or other equipment shall require approval under the same Zoning procedures as an original application. Like-kind replacements shall not require a permit modification.
- (3) The Planning Commission or Governing Body, when considering a UPUR for a WECS, shall have the ability to grant a deviation from these standards subject to review and approval of detailed information submitted by the applicant illustrating the need and justification for the deviation.

5. General Provisions.

The following general provisions apply.

- (1) **Damage to Public Property.** Applicants shall be held liable for any damage to public roads or rights-of-way resulting from tower construction, deconstruction, and/or maintenance activity.
- (2) **Tower Design.** No lattice structures shall be permitted. All tower structures shall be of self-supporting, monopole construction; except that, a wind turbine designed to be attached to a structurally reinforced roof shall not require a self-supporting monopole design where such support is not warranted, provided that the roof-mounted turbine height is no greater than one half the height of a standard two-story building.
- (3) **The UPUR for a WECS is to run with the land, not with the UPUR applicant; provided, however, if the land or WECS ownership is transferred to another party, then the UPUR is to be transferred from the approved party to the new land owner or WECS owner; provided further, that said transfer is approved by the City.**
- (4) **If a surety bond has been required as a condition of Commercial-WECS approval, first party shall inform the second party of the surety bond and all other requirements of the UPUR. The second party, or new holder of the UPUR shall meet the surety bond requirements and all other requirements of the UPUR, subject to “Abandonment and Removal” provisions of these regulations. A transfer fee per turbine, as established by the City in a fee ordinance, shall be paid to the City as a condition of City transfer of the UPUR to the new holder.**

6. Standards and Regulations.

All WECS shall meet or exceed the following standards:

- (1) **Federal and State Regulations.** All WECS shall meet or exceed State and Federal standards and regulations.
- (2) **Electrical Codes and Standards.** All WECS and accessory equipment and facilities shall comply with the National Electrical Code and other applicable standards. All electrical wires associated with a WECS shall be located underground except for those wires necessary to connect the wind generator to the tower wiring, the tower wiring to the disconnect junction box, and the grounding wires. Wherever possible collection cables will be placed underground. When necessary collection cables may be placed above ground.
- (3) **Collection Lines.** All communications and collection lines, equal to or less than 34.5kV in capacity, installed as part of a WECS shall be buried wherever possible.
- (4) **Clearance.** The minimum distance between the ground and any part of the rotor blade system of a Commercial-WECS shall be 30 feet. The blade tip clearance for Micro-WECS shall, at its lowest point, have a ground clearance of not less than 25 feet.
- (5) **Self-Support Structures.** All tower structures shall be of monopole construction unless attached to a structurally reinforced roof where such support is not warranted. Meteorological towers may be guyed. For all guyed towers, visible and reflective objects, such as plastic sleeves, reflectors or tape, shall be placed on the guy wire anchor points and along the outer and innermost guy wires up to a height of 8 feet above the ground. Visible fencing shall be installed around anchor points of guy wires.

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- (6) Tower Access. All access doors to the tower and electrical equipment shall be lockable. If access doors are not lockable the supporting tower shall be enclosed with a six foot tall fence with a locking portal placed around the tower's base or the tower climbing apparatus shall be limited to no lower than 12 feet above ground level.
- (7) Signage. Appropriate warning signage shall be placed on wind turbine towers, electrical equipment and WECS facility entrances. Signs and/or logos shall be limited to the manufacturer's, installer's, or owner's identification and appropriate warning signs. Commercial advertising is prohibited.
- (8) Building code compliance. All wind turbines shall meet or exceed the current standards expressed in the adopted building codes. A building permit is required prior to the installation of any wind turbine.
- (9) Utility connections. Reasonable efforts shall be made to locate utility connections from the wind turbine(s) underground, depending on appropriate soil conditions, shape, and topography of the site and any requirements of the utility provider. Electrical transformers for utility interconnections may be above ground if required by the utility provider. For electrical transformers with a 40 footprint greater than two (2) square feet in area, landscaping shall be provided where necessary to substantially screen the structure from public view and/or the view of adjacent homeowners. Maintenance of all landscaping shall be the responsibility of the property owner.
- (10) Electrical wires. All electrical wires associated with a wind turbine shall be located underground except for those wires necessary to connect the wind generator to the tower wiring, the tower wiring to the disconnect junction box, and the grounding wires.
- (11) Safety Shutdown. No wind turbine shall be permitted that lacks an automatic braking, furling, or feathering system to prevent uncontrolled rotation, over-speeding and excessive pressure on the tower structure, rotor blades, and turbine components. Owner shall maintain the ability to shut down turbines in an emergency.
- (12) Lighting. Wind turbines shall not be artificially lighted except as required by the FAA and as necessary for safety and security purposes. Except as required by the FAA any lighting shall be directed downward and shall incorporate full cut-off fixtures to reduce light pollution.
- (13) Color/Finish. Wind turbines, exclusive of the towers, shall be painted a non-reflective, non-obtrusive color such as the manufacturer's default color option or a color that conforms to the environment and architecture of the community.
- (14) Alternative-WECS. For regulatory purposes the standard turbine-mounted, propeller-type blade WECS shall be the basis for these regulations. Alternative-WECS shall be evaluated by the standards that are applicable to standard turbine-mounted, propeller-type blade WECS that are found to be in the same category of WECS; and by the manufacturers' published installation standards as to noise, setback and related matters for the health, safety and welfare of the public.

7. Size and Lot or Parcel Restrictions.

The wind turbines constructed under these regulations shall meet the following size and setback restrictions:

WECS Type	Minimum Lot or Parcel Size	Maximum Turbine Height	Minimum Setback *	Enhanced Requirements
Micro-WECS	1-acre	60 feet	110% of the Turbine Height	None
Commercial-WECS	2-acres	150 feet	110% of the Turbine Height	Sect. 16-1130
Large-capacity Commercial-WECS	Prohibited			

** Measured from the closest adjacent lot line or parcel line or above ground public utility.*

8. APPLICATIONS FOR COMMERCIAL-WECS.

The following items shall be submitted in support of an application for a Commercial-WECS; except that, the City may require additional technical studies deemed necessary to fully evaluate the application, such as a noise study or geotechnical report:

- (1) Name of the project applicant(s), facility owner(s) and operator(s).
- (2) Legal description and address of the project.
- (3) Documentation of land ownership or legal control of the property.
- (4) Description of the project including: model, size, number, type, name plate generating capacity, rated power output, tower height, rotor material, rotor diameter, performance, safety, and noise characteristics of each wind turbine being proposed; also, tower and electrical transmission equipment, and total height of all wind turbines and means of interconnecting with the electrical grid.
- (5) A site development plan utilizing a standard engineering scale not to exceed 1:100, indicating the placement of the wind turbine(s) and distances from the proposed turbine location to existing buildings including purpose (e.g. residence, garages, barns, etc.), any above- ground utilities, the nearest tree(s), and all property lines; and including the location of property lines, wind turbines, electrical wires, interconnection points with the electrical grid, and all related accessory structures.
- (6) Meteorological tower information, if applicable, including location, height, and appearance.
- (7) Digital pictorial representations of “before and after” views (photo simulation or similar graphic display) from key viewpoints as may be required by the City.

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- (8) Certification by the manufacture’s engineer or another qualified engineer that the turbine, foundation and tower design of the WECS is within accepted professional standards, given local soil and climate conditions.
- (9) Proof of compliance with Airport Hazard Regulations in accordance with Federal Aviation Administration (FAA) and Kansas Department of Transportation (KDOT) Aviation Section standards under FAR Part 77, “Objects Affecting Navigable Airspace.”
- (10) A noise compliance summary statement to demonstrate that the wind turbine will not exceed noise standards of these regulations, except for during short-term events such as utility outages and severe windstorms. The noise summary shall include:
 - a. A description and map of the project’s noise producing features, including the range of noise levels expected, and the basis for such expectations.
 - b. A description and map of the noise sensitive environment, including any sensitive noise receptors (e.g. residences, resident care facilities, libraries, schools, and other facilities where quiet is important or where noise could be a nuisance) within one thousand (1,000) feet.

9. APPLICATIONS FOR MICRO-WECS.

The following items shall be submitted in support of an application for a Micro-WECS:

- (1) Name of the project applicant(s), facility owner(s) and operator(s).
- (2) Legal description and address of the project.
- (3) A plot plan utilizing a standard engineering scale not to exceed 1:100, indicating the placement of the wind turbine(s) and distances from the proposed turbine location to existing buildings including purpose (e.g. residence, garages, barns, etc.), any above-ground utilities, the nearest tree(s), and all property lines.
- (4) Turbine information: specific information on the type, model, size, height, rotor material, rated power output, performance, safety, and noise characteristics of each wind turbine being proposed, tower and electrical transmission equipment.
- (5) A noise compliance summary statement to demonstrate that the wind turbine will not exceed noise standards of these regulations, except for during short-term events such as utility outages and severe windstorms.
- (6) Drawings of the electrical components in sufficient detail to allow for a determination that the manner of electrical wiring is in compliance with the manufacturer’s specifications
- (7) Any other data that the City may require of the applicant for the proposed wind turbine structure, including the tower, base, and footings in sufficient detail to allow for a determination that the proposed Micro-WECS shall meet all the aforementioned standards. The City may require an engineering analysis of the tower showing compliance with the manufacturer’s specifications.

10. USE LIMITATIONS.

All WECS shall comply with the following use limitations:

- (1) Noise. The noise emitted from any wind turbine shall not exceed 50 dBA within 100 feet of the nearest property line, except during short-term events such as utility outages and severe windstorms.
- (2) Materials, signs and markings. Structures for wind turbines shall be self-supporting tubular towers painted a neutral color such as a white or pale gray. No lattice structure shall be used. No logos or advertisements are allowed on these structures. Each turbine shall be marked with a visible identification number located no higher than fifteen (15) feet above ground level.
- (3) Electromagnetic interference. No individual tower facility shall be installed in any location where its proximity with fixed broadcast, retransmission or reception antenna for radio, television or wireless phone or other personal communications systems would produce electromagnetic interference with signal transmission or reception. In the event the WECS and its associated facilities or its operations cause such interference, the facility owner(s) and/or operator(s) shall take timely measures necessary to correct the problem.
- (4) Separation requirements. If two or more ground-mounted wind turbines are located on one lot, they shall be separated by a distance 110 percent of the total height of the tallest wind turbine on the lot.

11. REMOVAL AFTER DISUSE OF A COMMERCIAL-WECS.

Upon disuse by the facility owner(s) and operator(s) of a Commercial-WECS for a continuous period of fifteen (15) months, the turbine shall be considered abandoned, and the owner(s) of such wind turbine shall remove the WECS within ninety (90) days of receipt of notice from the City notifying the owner of such abandonment. The following additional conditions and procedures shall apply:

- (1) The Facility Owner and Operator shall, at their expense, complete decommissioning of the turbine.
- (2) Decommissioning shall include removal of turbines and any associated buildings, cabling, electrical components, roads, and all other associated facilities. Foundations of turbines shall be removed to a depth of four (4) feet below the ground surface. Any access roads shall be removed to the landowner's satisfaction, and the ground shall be reseeded in grasses; except that, requirements to remove access roads shall not apply to roads in existence before the WECS application was filed. The landowner may choose to have access roads left intact with the approval of the City.
- (3) If such turbine and associated facilities are not removed within said ninety (90) days, the City may remove them at the owner's expense.

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ARTICLE 18 – MANUFACTURED HOME PARK REGULATIONS

1. INTENT:

The intent of Manufactured Home Park regulations is to guide site plan review of intense land uses that, because of physical attributes such as extraordinary height and bulk, require standards of review.

There may be permitted in the R-4 District, on approval of the city council by a special use permit, manufactured home parks subject to the following requirements.

- (1) The purpose of these regulations is to ensure and promote an acceptable living environment for occupants of manufactured home parks with manufactured home spaces, whether or not a charge is made for such spaces. Every manufactured home park shall comply with all other pertinent city and/or state regulations, together with all amendments thereto as may subsequently be adopted. No use shall be allowed other than those uses considered as an integral part of the planned manufactured home park as shown on the development plan.
 - (a) Location. A manufactured home park may be located upon any tract of land held under single ownership within the R-4 District.
 - (b) Size of Park. The minimum size of a manufactured home park shall be a minimum of five (5) acres and a maximum of 40 acres.
 - (c) Frontage. All manufactured homes within a manufactured home park shall front upon a private roadway within the park.
 - (d) Gross Density. The average gross density of a manufactured home park (including streets and sidewalks) shall not exceed six manufactured home spaces per acre.
 - (e) Access. A manufactured home park shall have access to arterial or major collector streets and no manufactured home space shall have direct access to a local residential public street.
 - (f) Off-Street Parking. A minimum of at least three (3) off-street parking space shall be provided for and be located on each manufactured home space. Parking will be allowed on one side of each roadway having a width of 30 feet.
- (2) Manufactured Home Park Plan. As part of the Special Use Permit application, any applicant shall submit a manufactured home park site plan. Each site plan shall be drawn on the scale of 1-inch equals 50 feet. Each site plan shall show roads, buildings, public utilities, land use zoning, and other features outside the park within 300 feet of the exterior boundaries. The site plan shall conform to the following design requirements:
 - (a) Drainage. The stormwater drainage system within the park shall be designed and constructed in accordance with the city's adopted design criteria and specifications.

Article 18 – Manufactured Home Park Regulations

- (b) Natural Features: The design of the park shall preserve natural features such as ponds, large trees, out-croppings, etc., when feasible.
- (c) Spaces. Each manufactured home park shall clearly define the manufactured home spaces, and such spaces shall not have an area of less than 4,500 square feet. There shall be a minimum distance of 30 feet between manufactured homes.
- (d) Circulation. The interior circulation and access driveways to public streets shall be so designed as to promote the public safety. A turn-around, with a minimum radius of 50 feet, sufficient to accommodate emergency vehicles on the scale of ambulances and pumper trucks, shall be provided at the terminus of all dead-end roadways.
- (e) Roadways. Internal roadways shall be provided and all manufactured home spaces shall face or abut on a roadway having a minimum width of 30 feet measured from back of curb to back of curb. Such roadways shall be designed and constructed in accordance with the city's adopted design criteria and specifications.
- (f) Sidewalks. Sidewalks at least five feet wide, leading from manufactured home spaces to service and recreational areas, shall be provided on at least one side of all streets within the park.
- (g) Lighting. Both roadways and sidewalks shall be adequately lighted. Roadways shall be lighted with a minimum of one streetlight at each roadway intersection and one street light at the end of each cul-de-sac that is 300 or more feet from a roadway intersection. These lights shall be a minimum of 1,000 lumens.
- (h) Setbacks and Landscaping. Manufactured homes shall be set back a minimum of 50 feet along the frontage of public streets and property lines of a major thoroughfare and a minimum of 25 feet from all private streets and rear lot (park space) lines. The 50 foot setback, or buffer zone, shall be planted with a mixture of trees and shrubs to provide a park-like appearance. The interior of the park shall have adequate grass, trees, and shrubs to provide a dust-deterrent shaded park-like atmosphere.
- (i) Office and Management. An area near the main entrance of the park shall be for office and management use only and shall provide accessory off-street parking equal to at least one parking space for every 40 home spaces within the park.
- (j) Facilities. Adequate provision shall be made for public water supply, sanitary sewers, fire protection, refuse collection and other necessary facilities to satisfy state and local codes, ordinances, and specifications. All water distribution and sanitary sewer system improvements shall be designed and constructed in accordance with the city's adopted design criteria and specifications.
- (k) Recreational Space. One or more recreational areas shall be provided and equipped with suitable play equipment and other recreational facilities. There shall be at least 250 square feet of developed recreation area per manufactured home space. Calculations of recreational space shall not include the setback requirements as specified in this Article.
- (l) Boat and Trailer Storage. Each manufactured home park shall provide screened areas for the storage of boats and trailers (travel, horse, or utility) with an aggregate of at least

100 square feet per manufactured home space. Boats, trailers, non-operational vehicles, and other vehicles and equipment not intended for use as daily transportation shall be stored or repaired only in the designated storage area. The storage area shall be located to minimize its impact on the park and adjacent areas and shall be screened by a combination of fencing and landscaping.

- (m) Garages, Carports and Outbuildings. Garages and carports may be allowed within the manufactured home park provided they conform to the requirements of a garage built on a typical residential lot. This includes, but is not limited to, submitting a site plan, obtaining a building permit, and meeting all building code requirements. Temporary garages, outbuildings, and other structures shall be prohibited.
 - (n) Storm Shelter: Each manufactured home park shall include a storm shelter, to be constructed in accordance with the building code of the city, with a minimum of 20 square feet of open floor area per manufactured home space. The shelter shall include a parking area (exclusive of on-street parking) to provide a minimum of one-half parking space per manufactured home space.
- (3) Nonconforming Manufactured Home Parks. Any manufactured home park, in existence at the time that this Article is enacted, that does not conform with the regulations and special conditions as established in subsections (1) and (2) of this section shall be deemed a nonconforming manufactured home park and shall be permitted to continue as such under the provisions of this Article. Additionally, when any mobile home or manufactured home, that occupies any manufactured home space within any nonconforming manufactured home park, is removed from the nonconforming manufactured home park, it may be replaced only with a manufactured home. However, use as nonconforming manufactured home park shall be deemed abandoned if its use is discontinued or if its normal operations cease for a period of 30 days. In the event that a nonconforming manufactured home park is deemed abandoned, the use of the land thereof shall thereafter conform to the district within which it is located. In all other respects, a nonconforming' manufactured home park is governed by the general rules governing nonconformance as set forth at Section 8 of this Article. Any reconstruction or repair of a nonconforming manufactured home park or subdivision or any expansion of a manufactured home park or subdivision and a nonconforming manufactured home park or subdivision shall meet the following criteria prior to the placement of a manufactured home on the site:
- (a) Stands or lots elevated on compacted fill or on pilings so the lowest floor of the manufactured home will be at or above the "base flood" elevation.
 - (b) Adequate surface drainage and access for a hauler are provided.
 - (c) In the instance of elevation on pilings:
 - (i) Lots shall be large enough to accommodate steps;
 - (ii) Piling foundations shall be placed in stable soil no more than 10 feet apart; and
 - (iii) Reinforcement shall be provided for pilings more than six feet above the ground level.
- (4) Placement of manufactured homes in the floodway. Manufactured home parks shall not be placed within the adopted regulatory floodway.

Article 18 – Manufactured Home Park Regulations

- (5) All manufactured homes, wherever they may be located within the city limits, shall be anchored to resist flotation, collapse, or lateral movement by providing over-the-top and frame ties in accordance with the requirements of the State of Kansas, as established at K.S.A. 75-1226, *et seq.* All manufactured homes that are to be located within any Floodway Overlay District or within any Floodway Fringe Overlay District shall comply with those additional requirements set forth in these regulations.

APPENDIX A – PERMITTED USE TABLES BY DISTRICT

Land Uses Table by Zoning District	AG, Agricultural	R-1 (Residential Low-Density)	R-2 (Residential Medium-Density)	R-3 (Resident High-Density)	R-4 (Manufactured Home Park District)	C-B (Central Business)	G-B (General Business)	I - 1 (Light Industrial)	I - 2 (Heavy Industrial)	LBCS Function	LBCS Structure	NAICS
	Residential Accommodations											
Accessory Dwellings (Granny Flats, Echo Homes, Garden Apartment)		P	P	P						1100	1130	
Dwelling, Single-Family Detached	P	P	P									
Dwelling, Single-Family Attached	P		P									
Dwelling, Single-Family Manufactured Home - Res Design	P	P	P	P	P							
Dwelling, Single-Family Modular	P	P	P	P	P							
Dwelling, Two-Family (Duplex)			P	P						1100	1121	
Dwelling, Manufactured Home	P				P							
Dwelling, Mobile Home	S	S	S	S	S							
Dwelling, Multifamily up to 4 units (quadraplex)				S								
Dwelling, Multifamily, 4-10 units						S				1100	1200	
Dwelling, Multifamily, more than 10 units						S						
Dwelling, Adaptive re-use converted buildings	S	S	S	S	S	S						
Dwelling, Zero Lot Line						S						
Elderly housing, multifamily dwellings				P		S						
Elderly housing, single-family dwellings	P	P	P	P								
Mixed Use Neighborhood Residences (includes dwelling units located over storefronts, with no commercial or office uses permitted above the ground floor)						P	S			2200-2455 5140-5160 6200-6220 6800-6820	2300 2400	
Residential Property Manager					A	A				2321		531311
Watchmen / caretakers						P	P	P	P			

CITY OF OSAWATOMIE - ZONING REGULATIONS

Appendix A - Permitted Uses by District

Land Uses Table by Zoning District	AG, Agricultural	R-1 (Residential Low-Density)	R-2 (Residential Medium-Density)	R-3 (Residential High-Density)	R-4 (Manufactured Home Park District)	C-B (Central Business)	G-B (General Business)	I-1 (Light Industrial)	I-2 (Heavy Industrial)	LBCS Function	LBCS Structure	NAICS
	Accommodations, Group Living											
Bed and Breakfast (See Home Occupation)												
Boarding and lodging house	S			S						1320		721310
Community living facility, Mental Health Convalescent	S			S						6520		623220
Community living facility, Mental Health / Substance Abuse, on-site staff						S				6520		623220
Dormitories				S		S				1000	1320	72131
Group home	P	P	P	P						6520		623220 623990
Group residence, limited (> 8)	S			S						6520		623220 623990
Group Residence, Elderly residential services.	P	P	P	P	P	P	P			1230 1250 6520		623110 623111 623112 623312
Hotel, motel						P	P			1330	1330	
Travel or Camping Trailer Park	S											
Commercial Services & Mixed Use												
Adaptive re-use of converted buildings	P	P	P	P		P	P					
Agricultural machinery and equipment sales area and service facility	S						P	S	S	2000		421820
Animal and pet services - boarding, grooming, sitting, and training, no outside kennel, no retail						P	P	S	S	2720		
Animal Care - Veterinarian Clinics, Animal hospital - enclosed kennel	S						P	S	S	2718		541940
Automotive services, except repairs and car washes						P	P	S	S			
Automobile service station full service							P	S	S	2116	2270	
Building materials sales and storage							P	P	P	2126		444190

Land Uses Table by Zoning District	AG, Agricultural	R-1 (Residential Low-Density)	R-2 (Residential Medium-Density)	R-3 (Residential High-Density)	R-4 (Manufactured Home Park District)	C-B (Central Business)	G-B (General Business)	I-1 (Light Industrial)	I-2 (Heavy Industrial)	LBCS Function	LBCS Structure	NAICS
	Building materials sales - without lumberyard						P	P			2126	
Car Wash, Car Care Centers							P	S	S	2110	2593	811192
Elderly Service Center, non-residential						P	P					624120
Farm / landscape / garden supply sales	S						P	A	A	2123		
Farm supplies -- wholesale trade	S						S					
Fertilizer sales and storage	S						S	S	S	2000		421820
Finance, Banks (Not including payday loans, check cashing, and consumer installment lenders)						P	P					522291
Finance, alternative services (including payday loans, check cashing, and consumer installment lenders)							S					522291
Home Occupation	A	A	A	A	A	A	A					
Home Occupation, Bed and Breakfast	S	S	S	S		A	A			1310		721191
Leasing, Agricultural/Industrial Machinery and Equipment							S	S	S	2334		
Leasing/Rental of Trucks, Trailers, RV's, Boats, Motorcycle							P	S	S	2332 2333		4411
Restaurant, Limited Service						P	P	S	S	2210		722211
Restaurant, Full Service						S	P			2200		722210
Sales and service, manufactured home, recreation vehicle, bus, truck, or similar large vehicles							P			2112		45393
Sales, boats/marine, recreational vehicle, travel or camping trailer, camper (including repair)							P			2114		44121 441222 441229
Vehicle repair and restoration, not including automotive wrecking or long-term disabled vehicle outdoor storage							P	P	P	2110	2280	811191

Appendix A - Permitted Uses by District

Land Uses Table by Zoning District	AG, Agricultural	R-1 (Residential Low-Density)	R-2 (Residential Medium-Density)	R-3 (Residential High-Density)	R-4 (Manufactured Home Park District)	C-B (Central Business)	G-B (General Business)	I - 1 (Light Industrial)	I - 2 (Heavy Industrial)	LBCS Function	LBCS Structure	NAICS
	Industrial Uses											
Automobile storage or towing (excluding wrecked and junked vehicles)								P	P	4138		488410
Building contractor							P	P	P	7110-7450		23110-235990
Chemicals, organic	S							P	P	3330		32519
Chemicals, plastics and rubber products								P	P	3320		325110-325199
Extractive industries	S							S	S			
Fuel oil distribution								P	P			45431
Landfill, sanitary	S							S	S	4345	6320	562212
Quarrying & stone cutting establishment	S							S	S	8500		2123
Recycling Centers	S							P	P			421930
Rendering and Meat Byproduct Processing								S	S	3110		311613
Salvage yards, junk yards, auto and scrap processing	S							P	P	2120		
Warehousing & Storage Uses												
Mini-storage Warehouse							P	P	P	2700	2710 2720	
Natural Gas Distribution, Flammable Liquid, Petroleum, Bulk Stations and Terminals and Above Ground Storage	S							P	P	3600	2780 2781 2782	422710
Outdoor Storage of construction equipment, generally							S	S	P	3600 7100		
Construction equipment storage									P	3600 7100		493190
Wind Energy Conversion Systems (WECS)	S	S	S	S	S	S	S	S	S	3600	2730 2740 2760	42 493
Warehousing, storage, wholesale, and distribution facilities	A							P	P	3500 3600	2730 2740 2760	42 493

Land Uses Table by Zoning District	AG, Agricultural	R-1 (Residential Low-Density)	R-2 (Residential Medium-Density)	R-3 (Residential High-Density)	R-4 (Manufactured Home Park District)	C-B (Central Business)	G-B (General Business)	I - 1 (Light Industrial)	I - 2 (Heavy Industrial)	LBCS Function	LBCS Structure	NAICS
	Arts, Recreation & Entertainment											
Adult entertainment business									S			
Drinking Establishments						S	P			2540		722410
Recreation - Community Recreation	P	P	P	S	S	S	P	S	S			924120
Recreation, Private - Arts / entertainment / recreation facility	S	S	S			S	P	S	S	500		
Recreation, Public - Arts / entertainment / recreation facility	A	A	A	A	A	A	A	A	A	500		
Temporary carnivals, rides, ferris wheels	S							S	S	5310		
Education, Health Care & Institutional												
Correctional Institution Facility, Public						S	S	P	P	6222	4600	922140
Correctional Institution Facility, Private								S	S	6222	4600	922140
Correctional office, Parole / Probation						S	S					922150
Day Care Center, > 10 patrons	S	S	S	S		S	S	A	A	6562 6566		624120 624410
Day Care Center	P	P	P	P		P	P	A	A	6562 6566		624120 624410
Schools, academic, continuance, alternative, adult, colleges and universities, and technical, trade, and other specialty schools						P	P	P	P	6124- 6140	4230	6115
Schools, elementary or secondary	P	P	P	P		P	P			6111- 6124	4200 4210	6111
Schools, nursery and preschool	P	P	P	P		P	P			6110	4210	

CITY OF OSAWATOMIE - ZONING REGULATIONS

Appendix A - Permitted Uses by District

Land Uses Table by Zoning District	AG, Agricultural	R-1 (Residential Low-Density)	R-2 (Residential Medium-Density)	R-3 (Resident High-Density)	R-4 (Manufactured Home Park District)	C-B (Central Business)	G-B (General Business)	I - 1 (Light Industrial)	I - 2 (Heavy Industrial)	LBCS Function	LBCS Structure	NAICS
	Transportation, Communication, Information & Utilities											
Freight terminals & truck terminals								P	P	4140-4144		484110-484230
Parking lots, accessory to principal use	S					S	P	P	P		5210-5220	81293
Parking lots, hard surfaced, as principal use						P	P	P	P		5210-5220	81293
Parking lots, gravel surface, as principal use	S								P		5210-5220	81293
Parking lots, gravel, accessory to principal use	P						S	S	P		5230-5240	81293
Stormwater management / flood control facilities	P	P	P	P	P	P	P	P	P		6220-6240	237990
Utility Uses & Structures												
Commercial radio, television, broadcasting and/or receiving towers	S	S	S	S	S	S	S	S	S			
Public utility storage and service yards	S							P	P			
Solid waste collection centers, solid waste transfer stations, recyclable materials, yard waste and similar items	S						S	S	S	4343		562111-562119
Solid Waste Landfill	S								S	4345	6320	562212
Utility facilities, principal use	S	S	S	S	S	S	S	S	S	4234	6100-6162	
Utility facilities, accessory to permitted use	P	P	P	P	P	P	P	P	P	4234	6100-6162	
Water supply facilities including pump stations, dams, levees, culverts, water tanks, wells, treatment plants, reservoirs, and other irrigation facilities	S	S	S	S	S	S	S	S	S		6200-6290	

Land Uses Table by Zoning District	AG, Agricultural	R-1 (Residential Low-Density)	R-2 (Residential Medium-Density)	R-3 (Residential High-Density)	R-4 (Manufactured Home Park District)	C-B (Central Business)	G-B (General Business)	I-1 (Light Industrial)	I-2 (Heavy Industrial)	LBCS Function	LBCS Structure	NAICS
Agriculture												
Agriculture	P									9100-9165 9300-9510	8100-8300, 8700	11
Animal Production and Support Services	P								P	9300-9380	8200	
Commercial agriculture	P											
Concentrated Animal Feeding Operations (CAFO's)	S										8300-8450	112
Farm product raw materials -- wholesale trade							S	P	P			
Farmer's market	P					P				2154		454390
Forestry, Commercial	P									9400-9430		
Forestry, noncommercial, and growing of all vegetation,	P									9400		113
Grain or agricultural storage facility	S											
Support functions for agriculture including farm and farm labor management services; spraying, dusting, and other related services; and crop harvesting and post harvest crop activities (including drying, siloing, etc.)	P									9200-9230		

LEGEND
P = Permitted Use
S = Special Use Permit
A = Accessory Use
Blank Cell = Not Permitted

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APPENDIX B - MULTIFAMILY DEVELOPMENT GUIDELINES

INTRODUCTION

The neighborhood is a key element in the structure of the city. It is where people live and raise their families. Neighborhoods combine to weave the fabric of the community and establish a need for employment, commercial, and recreational activities.

PURPOSE

The purpose of this guide is to clearly define and communicate those features that combine to establish strong neighborhood environments. It is intended that these guidelines will serve as an educational tool for the public, as a planning and design guide for the development sector, and as a policy guide for the review of proposed developments. The information provided here is specific to residential infill and multifamily (“R-3”) developments. This information is supplemental to the City of Osawatomie Comprehensive Plan, the Zoning Ordinance, and the Subdivision Regulations, all of which are available at the office of the City Clerk in the Osawatomie City Hall. This guide is an expression of community expectations regarding the importance of providing quality residential neighborhoods. The purpose is to encourage applicants to use these guidelines and to seek innovative and sensitive design solutions most appropriate to the needs of the immediate and surrounding neighborhoods.

PROCESS

This Appendix B is specifically geared to address the development of multifamily site planning. For more specific rezoning, platting, and site planning information see the City of Osawatomie Zoning Ordinance and Subdivision Regulations. Applicants are required to meet with Staff prior to application submittal. This affords the applicant an ability to discuss initial concept plans, necessary approvals, and design and development criteria prior to submitting an application.

Conceptual plans, the site analysis, and discussions with staff and the Staff should then be used to generate site plans. Site plan application may then be submitted according to the approved Application Submittal and Review Schedule of the Planning Commission available at the office of the City Clerk in Osawatomie City Hall. The following process should be followed in site plan applications.

SITE PLAN

Site Plan Reviews shall be performed by the City Staff and submitted to the Planning Commission for approval.

1. The applicant shall meet with City Staff in a pre-application conference to discuss the site plan requirements and other potential site-specific requirements prior to the submittal of an application.
2. The application form shall be completely filled out and returned to the Office of the City Clerk with the appropriate filing fee and any required supplemental information. As a part of the application, five (5) copies of a site plan conforming to the requirements of the Zoning Ordinance shall be submitted. An application shall not be processed until it has been fully completed, the appropriate fee paid, all requested information submitted, and the required pre-application meeting is held.

CITY OF OSAWATOMIE - ZONING REGULATIONS

Appendix B - Multifamily Development Guidelines

3. The Planning Commission shall recommend approval, denial, or continued refinement of the proposal at the next regularly scheduled meeting of the Planning Commission for which the item may be scheduled and shall adjourn and reconvene as is determined necessary.
4. The applicant may appeal a site plan review determination to the City Council for approval in the event that an applicant alleges that there is an error in any order, requirement, decision or determination made by the Planning Commission in the enforcement of Site Plan Review. The request for review by the City Council shall be accompanied by a complete description of the error(s) alleged.

MULTIFAMILY DEVELOPMENT GUIDELINES

The intent of these guidelines is to increase the livability and the appearance of multifamily complexes. The design of such development contributes to the overall image of the City and is a significant component of the community's residential mix.

- A. As much as possible, developments should include a mix of housing styles such as townhouses, condominiums, garden apartments, duplexes, and single family units to create a mixed-use community with housing options for residents of all ages and incomes.
- B. When located adjacent to single-family dwellings, the design and appearance of multiple family dwellings shall incorporate similar massing, height, roof pitch, and architectural features—including front porches; cornice lines; horizontal lines of windows; and architectural embellishments such as shutters, dormers, belvederes, chimneys, etc. to create the appearance of single family dwellings.
- C. Site designs should create a sense of "neighborhood" which includes:
 1. Maintenance of a classic street grid system, as opposed to looped systems that may appear disjointed and confusing.
 2. Buildings sited with front entrances and porches oriented toward streets, drives, and plazas, rather than clustered around parking lots.
 3. Parking lots located and screened as a buffer from an arterial street.
 4. Walkways that connect all buildings with parking areas, play areas, club houses, and sidewalks along adjoining streets, as well as neighboring stores, with access to neighborhood retail centers, whenever possible.

REQUIRED SUPPLEMENTARY INFORMATION FOR ZONING AND SITE PLAN APPLICATIONS

In addition to the necessary information included on plans submitted in support of planned development district zoning applications, the following information shall be required for infill and multifamily rezoning applications or plan approvals, if applicable, as determined by the City Staff.

- A. Site Section Plans - up to three as designated by the City Staff.
- B. Site Analysis - to include the following:
 1. Existing topography at two-foot contour intervals;

2. One-hundred-year floodplain boundary;
3. Impact of upstream and downstream development;
4. Surface drainage channels;
5. Existing structures on the site;
6. Street and traffic patterns affecting the site;
7. Pedestrian and vehicular access points;
8. Surrounding uses, activities, and influences of the site and adjacent properties.

DEVELOPMENT CRITERIA

Each multifamily and infill site entails different site characteristics, impacts, and opportunities. It is the responsibility of the planner, architect, and developer to provide the highest quality neighborhood environment. The following design criteria articulate design principles common to strong neighborhoods. These criteria should be applied throughout the design process and will be applied in review of multifamily and infill projects. Development guidelines include Design Objectives that reflect community design expectations and are policies to be followed in project review.

Neighborhood Infill Design Objectives

Existing single-family (residential) neighborhoods represent strong patterns of form, activity, and character. Infill development should strive to strengthen these characteristics and enhance the neighborhood. For the purpose of these guidelines, infill residential projects shall be any development proposed within an existing, established residential area.

1. The physical form and pattern of existing, established residential neighborhoods should be maintained to the greatest extent possible. Infill design should incorporate the following principles:
 - a. Building orientation should reflect the predominant neighborhood pattern. The front-to-front, back-to-back relationship of typical residential neighborhoods establishes security, privacy, and a very identifiable streetscape that should be maintained.
 - b. Vehicular and pedestrian circulation patterns should be maintained by infill projects.
 - c. Neighborhood open space patterns, and side, front, and rear yards should be visually preserved. The spacing of infill units (front, rear, and side yards) should generally reflect the spacing of existing homes in the neighborhood.
 - d. Building heights should be compatible with the average height of homes in the neighborhood. Each project should be particularly sensitive to planning and design of contiguous parcels.
 - e. The streetscape and landscaping should be designed to reflect existing neighborhood forms, rhythm and spacing.

Appendix B - Multifamily Development Guidelines

2. The visual character of a neighborhood is, in part, formed through residential architecture and various activities, such as parking. Infill development should:
 - a. Parking should be screened from view to minimize its negative visual impact.
 - b. The architectural design of infill development should strengthen the existing forms of the neighborhood. Architecturally, project design should represent compatible building form; roof types, slope, and overhand; horizontal and vertical proportions; exterior materials, finishes, and details.

Natural Features Design Objectives

1. The following elements should be used to strengthen the neighborhood recreation areas, internal and external focal points, and provide physical separations and buffers. Natural site features should be used to create neighborhood amenities and may include:
 - a. Floodplains and surface drainage channels;
 - b. Prominent ridges, bluffs, or valleys, and
 - c. Existing vegetation.
2. Every reasonable effort should be made to preserve existing tree cover including tree masses, windrows, and significant individual trees. These features should be incorporated as neighborhood amenities.
3. Site planning and building orientation should work with natural slopes and grades to create individual neighborhoods.

Open Space Design Objectives

1. Sufficient neighborhood open space should be provided to meet active and passive use requirements of the neighborhood.
 - a. Common areas should be centrally located within, and highly accessible to the neighborhood. Such areas should be of adequate size, and designed to reduce impacts of various functions and activities. Common areas may include pools and larger recreational paths.
 - b. Semi-common areas should be accessible to sub-neighborhoods and be more private in nature. Semi-common areas may include courtyards and pedestrian paths.
 - c. Private areas should allow limited access and be screened and enclosed to insure privacy. Private areas typically include yards, balconies and patios.
2. In some instances it may be appropriate to use open space (common and semi-common areas) to buffer negative impacts.
3. If possible, open space should be designed to provide linkages with larger community open space systems. At the same time, however, open space can be used to provide separation of sub-neighborhoods to increase character and identity.

Building Orientation Design Objectives

1. The siting of individual buildings should help to establish neighborhoods and sub-neighborhood clusters. In clustering buildings:
 - a. Sub-neighborhood clusters should generally not exceed 150 to 200 dwelling units; and
 - b. Individual identity should be reflected through architectural design within each sub-neighborhood. Architectural details should be used consistently throughout the community but should reflect a unique character within each sub-neighborhood.
2. Within sub-neighborhoods, buildings should be oriented to:
 - a. Minimize unusable and unassigned open spaces. Open space can be "assigned" through the use of low walls, landscaping, and window and entry orientation.
 - b. Ensure privacy of interior and outdoor areas and provide a sense of neighborhood security.
 - c. Define open space including common areas, semi-common areas, and pedestrian areas; i.e., clustering of buildings around a central common area.
 - d. Primary orientation to parking areas should be avoided. Each unit should allow a "front yard" and a "rear yard." Typically, double-loaded unit designs do not afford this opportunity and should be avoided.
3. Site topography should be addressed in building design and orientation. Every attempt should be made to incorporate architectural designs and orientations which work with the site; i.e., buildings which step down with the grade, two-and three-story units, integrated garages, etc.

Vehicular Circulation and Parking Design Objectives

1. The organization of the street system of the neighborhood should provide a hierarchy of (a) quiet residential (local) streets feeding into (b) collector which then access (c) arterial streets (see Comprehensive Plan). Collector streets should not feed into lower intensity residential (local) streets.
2. The design of streets should respond to topography, intended traffic speed, and views. The following points apply:
 - a. Streets should not fight the topography. Align the street with the contours of the site.
 - b. Excessively straight and wide streets encourage high-speed traffic and do not have a residential scale. Curvilinear designs, reduced street widths, and cul-de-sacs can be used to create stronger neighborhood environments.
 - c. As streets serve as primary open space, the views along and within streets are important. Views along residential streets should be clearly defined. Again, excessively long/wide streets can be unappealing. Street trees, building orientation and street layout should create a residential scale and character.

Appendix B - Multifamily Development Guidelines

3. The design of open parking areas needs to respond to specific site features, functional requirements, and visual/aesthetic considerations. Parking areas should be designed to provide convenient access to the residents they serve. Generally, the parking should be located within 200 feet of the respective dwelling units. The overall layout and configuration of parking areas should be designed to control excessive amounts of paved area. The following points apply:
 - a. Double-loaded parking areas along private streets or drives are generally not acceptable. Every attempt should be made to cluster and separate parking areas from the street. Landscaping, changes in grade, etc. should be used to break up these spaces.
 - b. Clustered parking spaces should not exceed 100 spaces in total. Any area consisting of two double-loaded parking aisles should have a landscaped area separating each aisle. Perimeter areas should be substantially screened from view (see Landscaping).
4. The location and design of covered parking dramatically affects the character of the site. It is important to plan for the covered parking requirements at an early stage to avoid structures that detract from the neighborhood image.
 - a. The location and grouping of parking enclosures should complement the primary building arrangement and design. In clustered parking areas, carports should be used to provide enclosure. The larger the parking area, the greater the need to break it up with carports and landscaping.
 - b. Carports can also be used to reduce negative off-site impacts such as noise. In this manner, carports can form a visual enclosure that increases the security of the neighborhood.
 - c. On sloping sites, carports can be integrated into the site. This can be used to accommodate changes in grade, minimize the visual appearance of the carport, and buffer negative impacts.

Pedestrian Circulation Design Objectives

1. Pedestrian access should be designed to provide reasonable linkages of dwelling units to neighborhood facilities such as recreation, services, mail, and parking.
2. Pedestrian systems should incorporate landscaping details to increase the visual interest and character of the neighborhood.
3. The design of pedestrian facilities should respond to their intended use and meet the following design standards:
 - a. Sidewalks along streets and drives shall be a minimum four feet (4') in width.
 - b. Interior and private walkways along parking areas shall be a minimum of three unobstructed feet (3') in width.
 - c. Recreational and bike paths shall be a minimum five feet (5') in width.
 - d. The maximum slope of any walkway shall not exceed eight percent (8%).

- e. Exterior steps should have a rise between four and six inches (4" to 6"), and a tread between 13 inches and five feet (13" to 5').

Landscaping Design Objectives

1. Landscaping should buffer the neighborhood by providing:
 - a. Scale and enclosure of open space (streets, parking area, and recreation areas).
 - b. Separation of neighborhoods and building clusters.
 - c. Visual separation and screening of interior and exterior private areas.
2. Environmental and site impacts should be minimized through landscaping by buffering adjacent lower intensity uses such as single-family residential.
3. Berms and walls, or a combination thereof, can be used with landscaping to increase neighborhood privacy, security and to reduce negative impacts. Walls should be designed to be compatible with neighborhood materials and forms.

Grading Design Objectives

1. Berms, channels, swales, etc., should be designed and graded to be an integral part of the landscape.
2. The maximum slope of any grade should not exceed three feet in the horizontal to one foot in the vertical (3':1'). Grade changes in excess of 3':1' should be made by natural or constructed retaining walls.
3. Where retaining walls are required, they should be of a material compatible with the primary building architecture. The extensive use of railroad ties and gabion type retaining walls should be avoided.
4. Buildings should be located above adjacent street and parking areas. The average grade adjacent to a structure should slope away from the structure for a minimum of ten feet (10') at a five percent (5%) slope.

Architectural Design Objectives

1. Building designs that create variety and do not look monotonous if replicated throughout the development are required. Such designs should include the following:
 - a. Side and rear building elevations, garages, carports, and all accessory structures with the same level of design, aesthetic quality, and architectural detailing.
 - b. Porches, varied rooflines, and varied facade depths to create variety and individuality of each dwelling within the building.
 - c. Windows and projecting wall surfaces to break up larger wall surfaces and establish visual interest and to provide visibility of the street and other public spaces to encourage social interaction.

Appendix B - Multifamily Development Guidelines

- d. Protective entry courts, common vestibules, covered breeze ways, or enclosed stair halls to reduce the number of visible doors, unless designed in a row house or townhouse manner oriented toward the street.
- e. Garages designed to be integrated with the building design or sites so as to avoid long monotonous rows of garage doors and building walls. Garages shall be oriented so that they do not visually dominate the building facade or the streetscape.

APPENDIX C – TABLE OF SIGNS PERMITTED

Appendix C lists the permitted signs by zoning district. Only one Structural Type of Sign is permitted on one premise or for one business. Multiple Functional Types of Signs may be permitted.

CITY OF OSAWATOMIE, KANSAS ZONING REGULATIONS
Appendix C: SIGNS PERMITTED BY ZONING DISTRICT

SIGNS BY STRUCTURAL TYPE	ZONING DISTRICTS						Standards or Conditions
	AG	R-1, R-2, R-3, R-4	C-B	G-B	I-1	I-2	
Awning, Canopy or Marquee Sign	P	P	P	P	P	P	In association with a home occupation in R-Districts
Ground Sign	P			P	P	P	Requires Monolithic Base
Elevated Sign				P	P	P	Requires Monolithic Base
Monument Sign	P		P	P	P	P	
Temporary Free-Standing Sign	P		P	P	P	P	
Portable Display Signs							Not Permitted
Projecting Sign	P			P	P	P	
Roof Sign Elevated/Projecting					P	P	
Roof Sign Flush-Mounted Logo	P		P	P	P	P	
Roof-top Sign						P	
Wall Sign	P		P	P	P	P	

P = Permitted
C = Permitted with conditions

CITY OF OSAWATOMIE - ZONING REGULATIONS

Appendix C – Table of Signs Permitted by Zoning District

Appendix C: SIGNS PERMITTED BY ZONING DISTRICT—Continued

SIGNS BY FUNCTIONAL TYPE	ZONING DISTRICT						Standards or Conditions
	AG	R-1, R-2, R-3, MH	C-B	G-B	I-1	I-2	
Animated Sign	C			C	P	C	See section on sign limitations
Attention Attracting Device	P			P	P	P	
Banner	P		P	P	P	P	
Bulletin Board Sign	P	P	P	P	P	P	
Business Sign	P	P	P	P	P	P	In association with a home occupation in R Districts
Construction Sign	P	P	P	P		P	During construction
Electronic Message Board	P			P	P	P	
Entrance/Exit Sign	P	P	P	P	P	P	
Identification Sign	P	P	P	P	P	P	
Incidental Sign	P	P	P	P		P	
Inflatable Sign	P			P	P	P	
Name Plate Sign	P	P	P	P		P	
Official Sign	P	P	P	P		P	
Project Entrance Sign	P	P	P	P		P	
Pole Sign							(See “elevated sign” definition)
Real Estate Sign	P	P	P	P		P	
Temporary Event Sign	P	P	P	P		P	Sign Duration limited by event

P = Permitted

C = Permitted with conditions.

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SUBDIVISION REGULATIONS

for

CITY OF OSAWATOMIE, KANSAS

CITY OF OSAWATOMIE LAND DEVELOPMENT ORDINANCE

Official Copy as Incorporated by Reference by Ordinance No. _____

Public Hearing by the Osawatomie Planning Commission _____, 2013

Adopted by the Osawatomie City Council _____, 2013



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Article One GENERAL PROVISIONS

Section 1.01 Title

These regulations, including all appendices made a part hereof, shall be known and may be cited as the “Osawatomie Subdivision Regulations”, and shall hereinafter be referred to as “these regulations”.

Section 1.02 Jurisdiction

These regulations shall apply to all land located within the incorporated area of Osawatomie, Kansas.

Section 1.03 Authority

- A. Planning Commission. The Planning Commission that serves the City of Osawatomie, Kansas is vested with the authority to review, approve, conditionally approve and disapprove applications for the subdivision of land per these regulations. The Planning Commission may grant variances from these regulations pursuant to the provisions of Section 1.11.
- B. Governing Body. The Governing Body of the City of Osawatomie, Kansas is vested with the authority to accept or refuse the dedication of land for public purposes.

Section 1.04 Enactment

In order that land may be subdivided in accordance with these purposes and policies, these regulations are hereby adopted and made effective as of _____, 2013. All applications for subdivision approval, including Final Plats, pending on the effective date of these regulations shall be reviewed under these regulations except that these regulations will not apply if Preliminary Plat approval was obtained prior to the effective date of these regulations, unless the Planning Commission determines that application of these regulations is necessary to avoid a substantial risk of injury to public health, safety and general welfare.

Section 1.05 Reservations and Repeals

Upon the adoption of these regulations according to law, the Subdivision Regulations of the City of Osawatomie, Kansas, adopted as Ordinance _____, as amended, are hereby repealed, except as to those sections expressly retained in these regulations.

Section 1.06 Purpose And Intent

The purpose and intent of these regulations is to provide for the harmonious development of the community and the surrounding area; to provide for the proper location and width of streets, building lines, open spaces, safety and recreation facilities, utilities, drainage, and for the avoidance of congestion of population through application of minimum lot width, depth and area and the compatibility of design requirements; to require and fix the extent to which and the manner in which streets shall be graded and improved, and water, sewer, drainage, and other utility mains and piping or connections or other physical improvements shall be installed; and to provide for and secure the actual construction of such physical improvements.

Section 1.07 Applicability

The owner or owners of any land located within the jurisdiction of these regulations subdividing said land into two or more lots and blocks or tracts or parcels, for the purpose of laying out any subdivisions, suburban lots, building lots, tracts or parcels or any owner of any land establishing any street, alley, park or other property intended for public use or for the use of purchasers or owners of lots, tracts or parcels of land fronting thereon or adjacent thereto, shall cause a plat to be made in accordance with these regulations, unless exempted under Section 1.08. In addition, these regulations shall apply to the issuance of a certificate of occupancy.

Section 1.08 Exemptions

These regulations shall not apply in the following instances:

- A. A change in the boundary between adjoining lands which does not create an additional or substandard lot.
- B. Land used for street or railroad right-of-way, a drainage easement or other public utilities subject to local, state or federal regulations, where no new street or easement of access is involved.
- C. Any subdivision or resubdivision of lots, parcels or tracts larger than five (5) acres.
- D. Any transfer by operation of law.
- E. Lots that have been previously platted and zoned for industrial purposes may be divided into two or more tracts without replatting or resubdividing such lots in conformance with these regulations.

Section 1.09 Interpretation and Conflict

- A. Interpretation. In their interpretation and application, the provisions of these regulations shall be held to be the minimum requirements for the promotion of the public health, safety and general welfare. These regulations shall be construed broadly to promote the purpose for which they are adopted.
 - 1. Public Provisions. These regulations are not intended to interfere with, repeal, or annul any other ordinance, rule or regulation, statute, or other provision of law except as provided in these regulations. Where any provision of these regulations imposes restrictions different from those imposed by any other provisions of these regulations or any other ordinance, rule or regulation, or other provision of law, the provision that is more restrictive or imposes higher standards shall control.
 - 2. Private Provisions. These regulations are not intended to repeal any easement, covenant or any other private agreement or restriction, provided that where the provisions of these regulations are more restrictive or impose higher standards or regulations that such an easement, covenant or other private agreement or restriction, the requirements of these

City Of Osawatomie Subdivision Regulations

General Provisions

regulations shall govern. Where the provisions of the easement, covenant or private agreement or restriction impose duties or obligations more restrictive or standards that are higher than the requirements of these regulations, or the determinations of the Planning Commission or the Governing Body in approving a subdivision or in enforcing these regulations, and the private provisions are not inconsistent with these regulations, then the private provisions shall be operative and supplemental to these regulations and the determinations made under the regulations.

Section 1.10 Severability and Savings Clause

- A. Each section and each subsection of these regulations are hereby declared to be independent of every other section or subsection so far as the passage of these regulations are concerned and the invalidity of any section or subsection of these regulations shall not invalidate any other section or subsection thereof.
- B. These regulations shall in no manner affect pending actions either civil or criminal founded on or growing out of any ordinance or part of any ordinance hereby repealed, and these regulations shall in no manner affect rights or causes of action either civil or criminal not in suit that may have already occurred or grown out of any ordinance or part of any ordinance hereby repealed.
- C. If any section, subsection, sentence, clause, phrase, or portion of these regulations are for any reason held to be invalid or unconstitutional by the decision of any Court, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof.

Section 1.11 Variances, Exceptions and Waiver of Conditions.

- A. General. Whenever the Planning Commission deems that extraordinary hardship or practical difficulties may result from strict compliance with these regulations and/or the purpose of these regulations may be better served by an alternative proposal, it may authorize a variance, exception or waiver of the conditions of these regulations. In authorizing such variance, exception or waiver, the Planning Commission shall consider the following:
 - 1. The conditions that the request is based upon constitute special circumstances or conditions affecting the property for which the relief is sought and are not generally applicable to other property.
 - 2. The variance, exception or waiver is necessary for the reasonable and acceptable development of the property in question, and involve a particular hardship to the owner as distinguished from a mere inconvenience, if the strict letter of these regulations is carried out.
 - 3. The granting of the variance, exception or waiver will not be detrimental to the public welfare or injurious to other property in the vicinity in which the property is situated.

4. The granting of the variance, exception or waiver will not in any manner vary the provisions of the Zoning Regulations, Comprehensive Plan or Official Map, except that those documents may be amended in the manner specified by law.

- B. Conditions. In approving variances, exception or waiver of conditions, the Planning Commission may require such conditions as will, in its judgment, secure substantially the purpose described in Section 1.06 of these regulations.

- C. Procedure. A petition for a variance, exception, or waiver of conditions shall be submitted in writing by the subdivider at the time when the Preliminary or Final Plat is filed for the consideration of the Planning Commission. The petition shall state fully the condition from which the petitioner is seeking relief, the grounds for the application and all of the facts relied upon by the petitioner, including the ability to meet the conditions of Section 1.11.A above.

Section 1.12 Amendments

For the purpose of protecting the public, health, safety, and general welfare, the Planning Commission may from time to time propose amendments to these regulations. Such proposed amendments shall be heard as part of a public hearing following public notice as require by law. Following recommendation by the Planning Commission, the Governing Body shall make action by approving or disapproving the amendment.

Section 1.13 Enforcement, Violations and Penalties

A. General

1. It shall be the duty of the designated City Officers and Officials to enforce these requirements and to bring the attention of the City Council and City Attorney any violations of these regulations.

2. No owner, or agent of the owner, of any parcel of the land located in a proposed subdivision shall transfer or sell any part of the parcel before a Final Plat of the subdivision has been approved by the Planning Commission in accordance with the provisions of the regulations and filed with the applicable public and quasi-public departments, offices or agencies of the City and County.

3. No certificate of occupancy shall be issued for the occupancy of any building or structure located on a lot or plat subdivided or sold in violation of the provisions of these regulations, nor shall the municipality have any obligation to issue certificates of occupancy or to extend utility services to any parcel created in violation of these regulations.

- B. Violations and Penalties.** Any person, firm, association, partnership or corporation violating the provisions of these regulations is guilty of a misdemeanor and upon conviction thereof shall be subject to a fine as established in the City fine ordinance, plus costs, for each offense and shall stand committed to jail until such fine and costs be paid or otherwise discharged according to law. The City of Osawatomie, Kansas shall further have the authority to maintain suits or action in any

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court of competent jurisdiction for the purpose of enforcing any provisions of these regulations and to abate nuisances maintained in violation thereof; and in addition to other remedies, institutions injunction, mandamus, or other appropriate action or proceeding to prevent such unlawful erection, or use, or to correct or abate such violation, or to prevent the occupancy of the building, structure or land. Each day such violation is committed or permitted to continue, shall constitute a separate offense and shall be punishable as a separate offense.

Section 1.14 Approvals Necessary For Acceptance Of Subdivision Plats

All plans, plats or replats of land laid out in building lots, and the streets, alleys or other portions of the same intended to be dedicated for public use, or for the use of purchasers or owners of the lots fronting thereon or adjacent thereto, shall be submitted to the Osawatomie Planning Commission and City Council for their official review and action as applicable per these regulations. The Register of Deeds shall not record any plat, as required by law, until such plat is approved by the Planning Commission and Governing Body and is signed by the Chair and Secretary of the Planning Commission, by the Mayor, City Clerk, and City Engineer of the City, and the Fire Chief or other authorized personnel of the applicable Fire Protection District.

Section 1.15 Plat Preparation

All Final Plats shall be prepared and stamped by a professional surveyor licensed in the State of Kansas.

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Article Two ADMINISTRATION

Section 2.01 Duties of the Codes Official Pertaining to this Ordinance:

- A. Maintain permanent and current records with respect to these regulations including amendments thereto. Keep on file minutes and agendas of all meeting and hearings.
- B. Review all applications for Sketch, Preliminary and Final Plats and notify applicants of acceptability for review.
- C. Process and distribute all Sketch, Preliminary and Final Plats, together with applications and filing fees.
- D. Transmit Sketch, Preliminary and Final Plats to the Planning Commission, along with written comments.
- E. Transmit Planning Commission recommendations regarding acceptance of plats to the Governing Body for its action.
- F. Transmit Final Plats to Register of Deeds for filing.
- G. Review and approve, approve conditionally or disapprove lot splits per Article 5.

Section 2.02 Duties of the City Engineer Pertaining to this Ordinance:

- A. Determine the need for a detailed Drainage Study or storm water improvements based upon the submittal of the Sketch Plat per Section 4.02.
- B. Review and approve, approve conditionally, or disapprove Drainage Studies per Section 4.05.
- C. Review and approve, approve conditionally, or disapprove Construction Documents per Section 4.06.
- D. Review and approve, approve conditionally or disapprove lot splits per Article 5.
- E. Review or inspect all required improvements and as-built drawings and recommend acceptance, acceptance conditionally or rejection per Section 7.03.

Section 2.03 Duties of the Planning Commission Pertaining to this Ordinance:

- A. Review and approve, approve conditionally, or disapprove Preliminary Plats per Section 4.02.F-G within sixty (60) days after the first meeting of the Planning Commission constituting the official submission date as defined in Section 4.01 C.
- B. Review and approve, approve conditionally or disapprove Final Plats within sixty (60) days after the first meeting of the Planning Commission following the submission of the Final Plat per Section 4.04.F-G. Transmit approved Final Plats, together with appropriate recommendations to the Governing Body for its acceptance of dedications of public improvements.
- C. Review and approve, approve conditionally or disapprove Lot Splits where an applicant has appealed Staff's decision per Section 5.01.E.
- D. Review and approve, approve conditionally or disapprove variances, exceptions and waivers of conditions the regulations herein per Section 1.11.
- E. Make other determinations and decisions including making recommendations of amendments to these regulations as may be required of the Planning Commission from time to time per Section 1.12.

Section 2.04 Duties of the Governing Body Pertaining to this Ordinance:

- A. Consider Planning Commission recommendations on Final Plats and accept or reject dedications of public improvements within thirty (30) days after the first meeting of the Governing Body following action by the Planning Commission per Section 4.04.H.
- B. Accept or reject financial guarantees from subdividers in lieu of immediate completion or installation of improvements required by the regulation per Section 7.01.
- C. Accept, accept conditionally or reject dedication of required improvements following completion and inspection per Section 7.03.
- D. Take other action as required from time to time including the consideration of amendments to these regulations per Section 1.12.

Article Three DEFINITIONS

Section 3.01 Usage

- A. For the purpose of these regulations, certain numbers, abbreviations, terms and words shall be used, interpreted and defined as set forth herein.
- B. Unless the context clearly indicates to the contrary, words used in the present tense include the future tense and words used in the plural include the singular.

Section 3.02 Definitions

- A. Alley. A public or private right-of-way designed to serve as primary vehicular access to the side or rear of those properties whose principal frontage is on some other street.
- B. Applicant. The owner of land proposed to be subdivided or its representative who shall have express written authority to act on behalf of the owner. Consent shall be required from the legal owner of the premises. See also Developer, Owner, and Subdivider.
- C. Block. A tract of land entirely surrounded by streets, or by a combination of streets and public rights-of-way, or as otherwise determined by the Planning Commission or its authorized representative.
- D. Bond. Any form of security including a cash deposit, surety bond, collateral, property or instrument of credit in an amount and form satisfactory to the governing body. All bonds shall be approved by the governing body wherever a bond is required by these regulations.
- E. Building. See Structure.
- F. Certificate of Occupancy. An official certification indicating that a use or building (as built) conforms to the provisions of these regulations and may be used or occupied.
- G. Certify. Whenever these regulations require that an agency or official certify the existence of some fact or circumstance, the City of Osawatomie by administrative rule may require that such certification be made in any manner, oral or written, which provides reasonable assurance of the accuracy of the certification.
- H. City. The City of Osawatomie, Kansas (also herein referred to as “the City”).
- I. City Council. See Governing Body.
- J. City Engineer. The licensed consulting civil engineer designated by the Governing Body to furnish engineering assistance for the administration these regulations.

- K. Codes Official. The person authorized and empowered by the City Council to administer and enforce the permitting and inspecting process within the City.
- L. Common Ownership. Ownership by the same person, corporation, firm, entity, partnership, or unincorporated association; or ownership by different corporations, firms, partnerships, entities, or unincorporated associations, in which a stockbroker, partner, or associate, or a member of his family owns an interest in each corporation, firm, partnership, entity, or unincorporated association.
- M. Construction Documents. The maps or drawings showing the specific location and design of improvements to be installed in a subdivision in accordance with the requirements of the Planning Commission as a condition of the approval of the plat.
- N. Cul-de-Sac. A local street with only one outlet that terminates in a vehicular turnaround and having an appropriate terminal for the safe and convenient reversal of traffic movement.
- O. Dedication. The transfer of private to public or common ownership for a public purpose. The transfer may be in fee simple title or less than fee simple interest including easements. Dedication requires the acceptance of the interest to be complete.
- P. Developer. The owner of land proposed to be subdivided or its representative who is responsible for any undertaking that requires review and/ or approval under these regulations. See also Owner and Subdivider.
- Q. Easement. A permanent or temporary grant of right by a property owner to the public, a corporation or other persons, of the use of a portion of a lot or tract of land for specified purposes where title to said portion of the lot or tract of land remains with the landowner.
- R. Escrow. A deposit of cash with the local government or escrow agent to secure the promise to perform some act.
- S. Escrow Agent. A title company, bank, savings and loan association, trust company, attorney or any other person or agency approved by the City to act as an escrow agent.
- T. Fair Market Value. The fair market value of a designated unit at the time such value is approved by the Governing Body.
- U. Frontage. The length of the property abutting on one side of a street measured along the dividing line between the property and the street.
- V. Governing Body. The duly elected Mayor and City Council of the City of Osawatomie.
- W. Health Department. The Miami County Health Department serving the County.
- X. Improvement. Any roadway, drainage ditch, sidewalk, pedestrianway, parkway, tree, lawn, off street parking area, lot improvement or other facility for which the City of Osawatomie may

City Of Osawatomie Subdivision Regulations

Definitions

ultimately assume the responsibility for maintenance and operation, or which may affect an improvement for which the City of Osawatomie responsibility is established.

- Y. Lot. A tract, plot or portion of a subdivision or other parcel of land intended as a unit for the purpose whether immediate or future, of transfer of ownership, or possession, or for building development.
- Z. Lot Split. The division of a single lot into not more than two (2) tracts, per these regulations, with out having to resubdivide said lot, providing that the resulting lots shall not again be divided without replatting.
- AA. Off-site. Any premises not located within the area of the property to be subdivided, whether or not in the common ownership of the applicant for subdivision approval.
- BB. Owner. The record owners of the fee or a vendee in possession, including any person, group of persons, firm or firms, corporation or corporations, or any other legal entity having legal title to or sufficient proprietary interest in the land sought to be subdivided under the definition of Same Ownership.
- CC. Person. Any individual or group of individuals, or any corporation, general or limited partnership, joint venture, unincorporated association, or governmental or quasi-governmental entity.
- DD. Plat, Final. A drawing of a permanent nature showing the precise location and dimension of such features as streets, lots, easements and other elements pertinent to transfer of ownership and prepared to be recorded after approval by the Planning Commission and including any accompanying material as described in these regulations.
- EE. Plat, Preliminary. A drawing described in these regulations, showing the proposed general patterns of streets, lots and land uses within a tract to be subdivided, indicating the proposed manner or layout of the subdivision to be submitted to the Planning Commission for approval.
- FF. Plat, Sketch. A sketch preparatory to the preliminary plat (or final plat in the case of minor subdivisions) to enable the subdivider to save time and expense in reaching general agreement with the Codes Official as to the form of the plat and the objectives of these regulations.
- GG. Planning Commission. The Planning Commission for the City.
- HH. Plot. One or more contiguous parcels of land under single ownership or control, designated by its owner, at the time of filing an application for development, as a tract to be used, developed or built upon as a unit. It may or may not coincide with the deed description thereof or the boundaries of the same as shown on a map thereof filed for record or otherwise, and it subsequently may be subdivided into two (2) or more plots, provided all such plots conform to all the regulations of the district. The boundaries of any plot for which a certificate of occupancy is requested, shall be accurately drawn on the application therefor.
- II. Professional Surveyor. A practicing surveyor licensed in the State of Kansas.

- JJ. Property Owners Association. An association or organization, whether or not incorporated, which operates under and pursuant to recorded covenants or deed restrictions, through which each owner of a portion of a subdivision-be it a lot, parcel site, unit plot, condominium, or any other interest-is automatically a member as a condition of ownership and each such member is subject to a charge or assessment for a pro-rated share of expense of the association which may become a lien against the lot, parcel, unit, condominium, or other interest of the member.
- KK. Public Utilities. Publicly owned or regulated utilities including, water, sewer, telephone, gas, and electric.
- LL. Resubdivision. The act of amending or changing an approved Final Plat, including any change in any street layout or other public improvement, any lot line, the amount of land reserved for public use or the common use of lot owners, or any easements shown on the approved plat.
- MM. Right-of-way. A strip of land occupied or intended to be occupied by a street, crosswalk, railroad, road, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, or for another special use. The usage of the term "right-of-way" for land platting purposes shall mean that every right-of-way hereafter established and shown on a final plat is to be separate and distinct from the lots or parcels adjoining such right-of-way, are not included within the dimensions or areas of such lots or parcels. Rights-of-way intended for streets, crosswalks, water mains, sanitary sewers, storm drains, or any other use involving maintenance by a public agency shall be dedicated to public use by the maker of the plat on which such right-of-way is established.
- NN. Sale or Lease. Any immediate or future transfer of ownership, or any possessory interest in land, including contract of sale, lease, devise, or other transfer of an interest in a subdivision or part thereof, whether by metes and bounds or lot and block description.
- OO. Sanitary Sewer System. A totally enclosed system consisting of an underground collection system and a treatment system so installed that when the treatment is completed, the affluent discharge meets the standard of the jurisdictional health agency.
- PP. Setback. The required minimum horizontal distance between the structure line and the related front, side, or rear property line.
- QQ. Street. A way set aside for vehicular traffic, regardless of size or designation, but excluding private driveways serving only one (1) parcel of land.
- RR. Street, Arterial. A street or highway designated or utilized primarily for high vehicular speeds or for heavy volumes of traffic.
- SS. Street, Collector. A street that carries or will carry intermediate volumes of traffic from local streets to arterial streets.
- TT. Street, Dead-End. A street or a portion of a street with only one (1) vehicular-traffic outlet. See also Cul-de-Sac.

City Of Osawatomie Subdivision Regulations

Definitions

- UU. Street, Local. A street that is used or will be used primarily for access to abutting properties and which carry or will carry limited volumes of traffic.
- VV. Street, Marginal Access. A street that is parallel to and adjacent to arterial streets and highways and that serves to reduce the number of access points to the arterial streets and thereby increase traffic safety.
- WW. Structure: Anything constructed or erected, the use of which requires permanent location on the ground or attachment to something having a permanent location on the ground, but not including fences or public items such as utility poles, street light fixtures, and street signs.
- XX. Subdivider. Any person who (1) having an interest in land, causes it, directly or indirectly, to be divided into a subdivision or who; (2) directly or indirectly, sells, leases or develops or offers to sell, lease or develop, or advertises for sale, lease or development, any interest, lot, parcel, site, unit or plot in a subdivision, or who; (3) engages directly or through an agent in the business of selling, leasing, developing or offering for sale, lease or development a subdivision or any interest, lot, parcel, site, unit or plot in a subdivision, and who (4) is directly or indirectly controlled by, or under direct or indirect common control with any of the foregoing.
- YY. Subdivision. Any land, vacant or improved, which is divided or proposed to be divided into two (2) or more lots, parcels, sites, units, plots or interests for the purposed of offer, sale, lease or development either on the installment plan or upon any and all other plans, terms and conditions, including resubdivision. Subdivision includes the division or development of residential and nonresidential zoned land, whether by deed, metes and bound description, map, plat or other recorded instrument.
- ZZ. Subdivision Improvement Agreement. A contract entered into by the applicant and the Governing Body by which the applicant promises to complete the required public improvements, as specified within these regulations, within the subdivision within a specified time period following final subdivision plat approval.
- AAA. Subdivision, Major. All subdivisions not classified as minor subdivisions.
- BBB. Subdivision, Minor. Any subdivision containing not more than five (5) lots fronting on an existing street, not involving any new street or road, or the extension of municipal facilities or the creation of any public improvements, and not adversely affecting the remainder of the parcel or adjoining property, and not in conflict with any provision or portion of the Comprehensive Plan, Official Map, Zoning Regulations, or these regulations.
- CCC. Subdivision, Staged. Any subdivision within a drainage sub-basin in which public sewer is projected to be developed in the future, but for which it is not feasible to provide public sewer at the time of development, and meeting the requirements of these regulations.
- DDD. Subdivision Regulations. The term “Subdivision Regulations” or “these regulations” shall mean the requirements stipulated in the regulations herewith attached, and shall mean the lawfully adopted Subdivision Regulations of the City of Osawatomie.

- EEE. Tract. A lot. The term "tract" is used interchangeably with the term "lot," particularly in the context or subdivision, where a "tract" is subdivided into several lots, parcels, sites, plots, tracts, or interests. See also Lot and Plot.
- FFF. Vested Rights. Right to initiate or continue the establishment of a use which will be contrary to a restriction or regulation coming into effect prior to or following completion of the project associated with the use.

Article Four SUBDIVISION – PROCEDURES, SPECIFICATIONS & APPROVAL PROCESS

Section 4.01 General Procedure

- A. Classification of Subdivisions. Land proposed to be subdivided shall be classified according to one of the following:
1. Minor Subdivision. Any residential subdivision that meets all the following criteria:
 - a. The subdivision will not result in the creation of more than five (5) lots fronting on an existing street built to City standards and will not require the construction of any new street or road;
 - b. The subdivision will not require the extension of municipal facilities or the creation of any public improvements;
 - c. The subdivision is consistent with the applicable provisions and portions of the Comprehensive Plan;
 - d. The City Engineer has determined, following review of the applicant's preliminary drainage information, that no detailed drainage plan or improvements are needed; and
 - e. The proposed subdivision does not have any topography, access, sewage disposal or design concerns that would warrant review and consideration within the requirements of the Major Subdivision classification designation.
 2. Major Subdivision. Any subdivision not classified as a minor or staged subdivision, including but not limited to any sized subdivision requiring any new street, extension of municipal facilities or the creation of public improvements and which will be served with public sewer upon development.
 3. Staged Subdivision. Any subdivision within a drainage sub-basin in which public sewer is projected to be developed in the future, but for which it is not feasible to provide public sewer at the time of development. In addition to the requirements of Article 4, staged subdivisions shall meet all the following criteria:
 - a. No parcel in existence on the effective date of this Ordinance shall be subdivided more than once according to the staged subdivision process regardless of change in ownership. No further subdivision of a lot created by the staged subdivision process shall be permitted unless it meets the requirements of Section 4.07.
 - b. Direct access to collector and arterial streets is prohibited unless meeting the minimum design requirements for access separation.
 - c. Each lot proposed shall demonstrate the ability to be resubdivided into future lots with areas no greater than 11,000 square feet. Each lot must show the ability to

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resubdivide without the cooperation of other lot owners in the subdivision by indicating future lot lines.

- d. Primary structures shall be located on no more than one (1) future lot, unless made necessary by site features and permitted by the Codes Official. Prior to permitting a primary structure to span two (2) lots, a written request must be submitted explaining necessity. In no case shall the building pad span more than two (2) lots.
- e. Accessory structures may be located on more than one future lot, but shall be oriented to the development of such future lots. Individual accessory structures shall not be located on more than one (1) lot.
- f. The storm water drainage and sanitary sewer system shall be designed to accommodate full development based on the proposed ability to resubdivide. Surface drainage meeting requirements of this Ordinance shall be handled in a development-wide facility located on a separate lot to be maintained by a subdivision association or dedicated to the City so all resubdivided lots need only install on-site drainage improvements. Sanitary sewer improvements meeting requirements of this Ordinance are required.

B. Procedure by Classification. Before any land is subdivided, the owner of the property proposed to be subdivided, or his authorized agent, shall apply for and secure approval of the proposed subdivision in accordance with either minor or major subdivision platting procedures. Within the time prescribed by the City prior to the filing of a preliminary plat, the subdivider shall present to the Codes Administrator the following information:

- (a) A general description of the existing conditions of the site and the suitability of the site for the proposed development. This information should include data on existing land and soil characteristics, existing covenants and agreements, availability of utilities and other public facilities, proposed use of each portion of the subdivision, proposed lot sizes and building sizes and other pertinent data as may be needed to supplement the sketches required in subsections (b) and (c) of this section.
- (b) A general location map drawn to an appropriate scale showing the proposed subdivision and its relationship to existing utilities, schools, parks, traffic arteries, and other features (such as hospitals, churches, airports, railroad, shopping centers or other business areas) located on land adjacent to the subdivision that might affect and influence the subdivision.
- (c) A drawing prepared to an appropriate scale showing approximate topography, natural features, proposed street layout, lots, and other planning features.
- (d) The relationship of the proposed subdivision to surrounding developed and undeveloped land when such information is considered relevant by the Planning Commission.

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- C. Official Submission Dates. For the purpose of these regulations, for major, minor and staged subdivisions, the date of the Planning Commission meeting at which the application is first considered, shall constitute the official submission date of the plat on which the statutory period required for formal approval, conditional approval or disapproval of the Preliminary or Final Plat shall begin.

Section 4.02 Sketch Plat

- A. Intent. The Sketch Plat gives general guidance in preparing a Preliminary or Final Plat. This plat is a conceptual representation of the applicant's desire and ability to meet the standards of these regulations. The Sketch Plat is expected to be modified as more detailed planning and engineering is completed. Dimensions, measurements, and calculations shown on the Sketch Plat are assumed to be illustrative. Detailed planning and engineering following Sketch Plat review are expected to result in changes in detail, but not the overall concept.
- B. General. Before preparing and submitting a Preliminary Plat for Major or Staged subdivisions or Final Plat for Minor subdivisions, the applicant shall schedule a meeting with the Codes Official to discuss the proposed subdivision and existing conditions, projected conditions, and the regulations and ordinances that will impact the development, including:
1. The subdivision classification;
 2. the procedure for approval of plats;
 3. the availability of existing services, including sewer, water, emergency services, schools, etc.;
 4. the Comprehensive Plan requirements for major streets, land use, parks, schools and public open spaces;
 5. the zoning requirements for the property in question and adjacent properties;
 6. the required improvements and design criteria; and
 7. the applicable fees and excise tax.

In addition, staff shall direct the applicant, when appropriate, to discuss the proposed subdivision with those staff or officials who must eventually approve specific aspects of the subdivision plat falling within their jurisdiction or responsibility.

- C. Application Procedure and Requirements. At the time of the Sketch Plat meeting, the land owner or his authorized agent shall submit:
1. A completed application as available in the adopted City of Osawatomie Procedures Manual or at the;

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2. Identification of all contiguous holdings of the owner including land in “common ownership” as defined in these regulations, with an indication of the portion which is proposed to be subdivided, accompanied by an affidavit of ownership, which shall include the dates the respective holdings of land were acquired, together with the book and page where each conveyance to the present owner is recorded in the County Register of Deeds. The affidavit shall identify the legal owner of the property, the contract owner of the property, the date the contract of sale was executed, and, if any corporations are involved, a complete list of all directors, officers, and stockholders of each corporation owning more than five percent of any class of stock; and
 3. Copies of the Sketch Plat in accordance with the City’s Application and Review Schedule.
- D. Submittal Requirements. Sketch Plats shall be drawn to a convenient scale of not more than 1” = 100’ and shall contain the following information:
1. Proposed or existing name of subdivision;
 2. Graphic scale, north arrow and date;
 3. Existing conditions, including:
 - a. Location of property lines, existing easements, rights-of-way, watercourses, major vegetation and location width and name of all existing or platted streets or other public ways within 200 feet;
 - b. Location and size of existing sewers, water mains, culverts and other utilities within the tract and immediately adjacent to the tract;
 - c. Existing buildings;
 - d. Existing topography (at the same scale as the Sketch Plat);
 - e. Existing floodplain;
 - f. Soil types and general location for all subdivisions proposed to be developed without access to public sanitary sewer; and
 - g. A vicinity map and/or aerial photography showing streets, street names and other general development of the surrounding area.
 4. Proposed layout, including:
 - a. The approximate location of proposed streets;

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- b. Preliminary proposals for connection with existing utilities, or alternative means of providing services;
 - c. Preliminary provisions for collecting and discharging surface water drainage;
 - d. The approximate location, dimensions, and area of all land to be dedicated for public use including rights-of-way and park land.
- E. Classification and Notice to Proceed. Within five (5) working days of the date that the Sketch Plat meeting was held, Codes Official shall determine whether the Sketch Plat constitutes a minor, major or staged subdivision and notify the applicant of the classification and any issues to be addressed or conditions to be met prior to proceeding. Upon verification that any issues have been addressed and conditions met, staff shall issue a “notice to proceed” with the plat as required for the specified classification.

Section 4.03 Preliminary Plat.

- A. Intent. The Preliminary Plat contains accurate preliminary planning and engineering. Although not a survey, the accuracy and design is such that only minor changes are to be expected in the Final Plat. Only minor revisions warranted by final engineering, surveying or other required changes are expected following approval of the Preliminary Plat. Unless part of a Planned Development district zoning or otherwise specified, the Preliminary Plat is not recorded. Rather it serves as a benchmark for reviewing and approving the Final Plat. A revised Preliminary Plat may be required for any subdivision that proposes a major deviation from a previously approved Preliminary Plat at the time of Final Plat application.
- B. General.
- 1. Preliminary plat submittal is required for all Major and Staged Subdivisions.
 - 2. In order to proceed, the applicant shall submit an application for approval of a Preliminary Plat within 120 days of the Notice to Proceed. If the Preliminary Plat application is not filed within the 120-day period, the applicant must resubmit a Sketch Plat and meet with Designated Administrative Personnel, unless a reasonable extension is granted by staff.
 - 3. The Preliminary Plat shall generally conform to the Sketch Plat that formed the basis for the Notice to Proceed.
- C. Application Procedure and Requirements.
- 1. Application: Preliminary Plat Application shall be made on forms available at City Hall or in the City of Osawatomie Procedures Manual. All applications shall be filled out in their entirety. Applications shall be reviewed for completeness within five (5) working days of filing. If the City determines that the application is complete, the application shall then be processed. If the City determines that it is incomplete, the City shall, within such five- day period, notify the applicant of the specific ways in which the application is

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deficient. Incomplete applications will not be accepted, or placed on an agenda for review and consideration. As such, applicants are encouraged to submit applications earlier than the deadlines specified in the adopted City of Osawatomie Application and Review Schedule.

2. Fees: A filing fee and deposit shall be charged and collected from the applicant in an amount as established by the Governing Body by ordinance or resolution. A separate filing fee and deposit shall be required for each Preliminary Plat application. The Preliminary Plat shall not be accepted for filing until the filing fee and deposit has been paid by the subdivider.
3. Submittal Materials: The subdivider shall submit one original and the required number of folded prints or copies of the Preliminary Plat, and a vicinity map (if not on the Preliminary Plat) showing the location of the proposed subdivision. These plans shall be filed with the Codes Official according to the adopted City of Osawatomie Application and Review Schedule.
4. Notification: The subdivider shall notify all owners of record of all unplatted land within 200 feet of property being proposed for subdividing or resubdividing of the intent to subdivide or resubdivide the subject property. Notification shall be sent via certified mail and a copy of a letter of notification shall be submitted with the Preliminary Plat. The subdivider shall also submit a complete list of the names and mailing addresses of, as prepared by the County Clerk or a title company.

D. Preliminary Plat Features. All Preliminary Plats shall contain:

1. Scale of the plat, 1" = 100' or larger.
2. A vicinity map at a scale of 1" = 1000' or larger, showing streets and street names within 500 feet of the boundaries of the proposed subdivision.
3. The proposed name of the subdivision. The name shall not duplicate or too closely resemble the name or names of an existing subdivision(s).
4. The location of the boundary lines of the subdivision and reference to the section or quarter section lines.
5. The names and addresses of the subdivider, developer, owner, and the engineer or land surveyor who prepared the plat.
6. Date of preparation and north point.
7. Existing conditions:
 - a. Current zoning classification, existing, projected and proposed land use.

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- b. Location, width and name of platted streets or other public ways, railroads and utility rights-of-way, parks and other public open spaces and permanent buildings within or adjacent to the proposed subdivision.
 - c. All existing sewers, water mains, gas mains, culverts, or other underground installations, within or adjacent to the proposed subdivision, with pipe size and manholes, grades and location.
 - d. Names of adjacent subdivisions together with arrangement of streets and lots, and owners of adjacent parcels of unsubdivided land.
 - e. Topography with contour intervals of not more than two feet, referred to City or U.S.G.S. datum; where the ground is too flat for contours, spot elevations shall be provided.
 - f. Location of watercourses, bridges, wooded areas, lakes, ravines, floodplain, and such other features as may be pertinent to the subdivision.
 - g. Soil types and location for all subdivisions proposed to be developed without access to public sanitary sewer.
8. Proposed improvements:
- a. The general arrangements of lots and their approximate size. Staged subdivisions shall indicate lots to be developed initially as well as future lots. Additional sheets may be warranted based upon the size of the proposed development or to show staged development plans.
 - b. Location and width of proposed streets, alleys, and pedestrian ways and easements, including easements required for staged subdivision as applicable.
 - c. The general plan of sewage disposal, water supply and drainage, including a map showing the drainage area of each major drainage way.
 - d. Location and size of proposed parks, playgrounds, churches, school sites or other special uses of land to be considered for reservation or dedication for public use. Including calculations for required open space dedication.
 - e. General street layout of adjacent property within 200 feet to show how streets and other public facilities in the proposed subdivision relate to the adjacent property.
 - f. Approximate gradient of streets.
 - g. Relation to adjacent unsubdivided land.
 - h. A table showing gross acreage of the subdivision; acreage of each applicable zoning district; acreage dedicated to streets and other public uses; total number of

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buildable lots for each use proposed; maximum, minimum and average lot sizes for each use proposed; and overall density.

- E. Supplemental Data: The following additional information shall be submitted with the Preliminary Plat at the time of application:
1. Review by Public Utilities: The subdivider shall have the proposed plat reviewed by all affected utility companies or agencies to ensure that adequate easements are provided and shall submit a letter from each utility or agency regarding their review and comments on the plat.
 2. Preliminary Grading Plan: The subdivider shall submit a preliminary grading plan including, existing and proposed land elevations, contours, and slopes. This plan shall be forwarded to the City Engineer. These plans are not intended to be detailed suitable for construction.
 3. Drainage Study: The subdivider shall submit a drainage study for the proposed site as required in these regulations.
- F. Preliminary Plat Action: After the Planning Commission has reviewed the Preliminary Plat, applicable reports submitted, and any additional materials submitted, the Planning Commission shall approve, conditionally approve, or disapprove the Preliminary Plat within sixty (60) days from the Official Submission date. If the Preliminary Plat is approved conditionally or tabled for further consideration, the applicant shall be advised of any required changes and/or additions necessary for approval.
- G. Action by the Planning Commission shall be conveyed to the subdivider in writing within seven (7) working days after the meeting at which the plat was considered. One (1) copy of the Preliminary Plat shall be returned to the developer with the date of approval, conditional approval, or disapproval and the reasons therefore accompanying the plat. The approval of the Preliminary Plat does not constitute an acceptance of the subdivision, but is deemed to be an authorization to proceed with the platting process.
- H. Standards for Approval of a Preliminary Plat: No Preliminary Plat of a proposed subdivision shall be approved by the Planning Commission unless the applicant proves by clear and convincing evidence that:

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1. Provisions have been made for adequate public facilities. The water supply system shall be sufficient in terms of quantity, dependability and quality to provide an appropriate supply of water for the type of subdivision proposed. If a public sewage system is proposed, adequate provision has been made for such a system and if other methods of sewage disposal are proposed, that such systems will comply with federal and state laws and regulations in addition the requirements of these regulations;
2. All areas of the proposed subdivision that may involve soil or topographic conditions presenting hazards or special precautions have been identified by the subdivider and that the proposed uses of these areas are compatible with such conditions;
3. The proposed subdivision will not result in the scattered subdivision of land that leaves undeveloped parcels of land lacking urban services between developed parcels; and
4. The subdivider has taken every effort to mitigate the impact of the proposed subdivision on the public health, safety and welfare.

The Planning Commission is authorized to disapprove the Preliminary Plat even though the land proposed for subdivision is zoned for the use to which the proposed subdivision will be put and the proposed use is consistent with the Comprehensive Plan.

- I. **Effective Date:** The approval of a Preliminary Plat shall be effective for a period of twelve (12) months from the date that the Preliminary Plat is approved by the Planning Commission. At the end of this period the applicant must have submitted a Final Plat for approval or the Planning Commission must have granted an extension to the validity of the Preliminary Plat at the request of the property owner.

Section 4.04 Final Plat.

- A. **Intent.** The Final Plat should be in substantial conformance with the Preliminary Plat or Sketch Plat and should reflect a final subdivision layout based upon completed Construction Documents. The Final Plat is the document to be recorded. All construction shall be in accordance with the Final Plat and Construction Documents.
- B. **General.**
 1. Final plat submittal is required for all subdivision classifications.
 2. In order to proceed, the applicant shall submit an application for approval of a Final Plat within 120 days of the Notice to Proceed, or twelve (12) months of the approval of a Preliminary Plat. If the Final Plat application is not filed within the 120-day or twelve (12) month period, the applicant must resubmit a Sketch Plat and/or a Preliminary Plat as required for the subdivision classification, unless an extension is granted by staff.
 3. The Final Plat shall conform substantially to the Sketch Plat or Preliminary Plat as applicable.

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4. The Final Plat may constitute only a portion of the Preliminary Plat that the subdivider proposes to record and develop.

C. Application Procedure and Requirements.

1. **Application:** Final Plat Application shall be made on forms available at City Hall or in the City of Osawatomi Procedures Manual. All applications shall be filled out in their entirety. Applications shall be reviewed for completeness within five (5) working days of filing. If the City determines that the application is complete, the application shall then be processed. If the City determines that it is incomplete, the City shall, within such five-day period, notify the applicant of the specific ways in which the application is deficient. Incomplete applications will not be accepted, or placed on an agenda for review and consideration. As such, applicants are encouraged to submit applications earlier than the deadlines specified in the adopted City of Osawatomi Application and Review Schedule.
2. **Fees:** A filing fee and deposit shall be charged and collected from the applicant in an amount as established by the Governing Body by ordinance. A separate filing fee and deposit shall be required for each Final Plat application. The Final Plat shall not be accepted for filing until the subdivider has paid all applicable filing fees and deposits.
3. **Submittal Materials:** The subdivider shall submit one original on mylar, the required number of folded prints or copies, and an electronic copy of the Final Plat. Electronic copies shall be in a format compatible with the City's designated software. These materials shall be filed with the Codes Official according to the adopted City of Osawatomi Application/Review Schedule.

D. Final Plat Features. All Final Plats shall contain:

1. Scale of plat, 1" = 100' or larger, on 24" x 36" sheets. If more than one sheet is required to cover the entire development, an index map of the same dimensions shall be filed showing the entire development at a smaller scale. The dimensions indicated are standard for all Final Plats and shall be complied with.
2. The proposed name of the subdivision. The name shall not duplicate or too closely resemble the name or names of any existing subdivision(s).
3. Location of the proposed subdivision in relation to section, township, range, county and state, including the description boundaries of the subdivision based on an accurate traverse, giving angular and linear dimensions that must be mathematically correct. The allowable error of closing on any portion of the plat shall be one foot in five thousand (1': 5,000').
4. The location of existing monuments or bench marks shall be shown and described on the Final Plat. Location of such monuments shall be shown in reference to existing official monuments or the nearest established street lines, including the true angles and distances to such reference points or monuments.

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5. The location of lots, streets, public highways, alleys, parks and other features, with accurate dimensions in feet and decimals of feet with the length of radii on all curves, and other information necessary to reproduce the plat on the ground.
 6. Lots shall be numbered clearly. Blocks shall be numbered or lettered clearly in the center of the block.
 7. The exact locations, widths and names of all streets and alleys to be dedicated.
 8. Boundary lines and description of the boundary lines of any area other than streets and alleys that are to be dedicated or reserved for public use.
 9. All Building setback lines with dimensions.
 10. The location of any floodplain located within the proposed subdivision and a statement regarding compliance with the City's adopted floodplain regulations.
 11. Name, signature and seal of the licensed land surveyor preparing the plat.
 12. Scale of the plat (scale to be shown graphically and in feet per plat scale inch), date of preparation and north point.
 13. Statement dedicating all easements, streets, alleys, and all other public areas not previously dedicated.
 14. Additional information required for Preliminary Plats deemed necessary by staff to determine the appropriateness of the proposed subdivision (Minor Plats only).
 15. The following certificates, which may be combined where appropriate (see appendix for specific language):
 - a. Certificate of Ownership, Consent and Dedication
 - b. Certificate of Accuracy
 - c. Certificate of Approval of Fire Protection Measures
 - d. Certificate of the Approval of Public Improvements
 - e. Certificate of the Approval of the Final Plat
- E. Supplemental Data: The following additional information shall be submitted with the Final Plat at the time of application:
1. Restrictive Covenants: A copy of any restrictive covenants applicable to the subdivision.

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2. Proof of Ownership: A title report by an abstract or a title insurance company, or an attorney's opinion of title, showing the name of the owner of the land and all other persons who have an interest in, or an encumbrance on the plat and any easements or other constraints.
 3. A certificate showing that all taxes and special assessments due and payable have been paid in full; or if such taxes have been protested as provided by law, monies or other sufficient escrows guaranteeing such payment of taxes in the event the protest is not upheld, may be placed on deposit with such official or governing bodies to meet this requirement.
 4. Owner's Acknowledgment: The names and signatures of the owner or owners of the property duly acknowledged and notarized shall appear on the original and copies or prints submitted.
 5. Construction Documents: The subdivider shall submit a letter from the City Engineer that Construction Documents and specifications for all required developer installed improvements have been approved.
- F. Final Plat Action by the Planning Commission: After the Planning Commission has reviewed the Preliminary Plat, applicable reports submitted, and any additional materials submitted to determine conformance with the subdivision regulations and Preliminary Plat, the Planning Commission shall approve, conditionally approve, or disapprove the Final Plat within sixty (60) days from the Official Submission date. If such determination is not made within sixty (60) days after the first meeting of the Planning Commission following the date of the submission of the plat to the Designated Administrative Personnel, such plat shall be deemed to have been approved and a certificate of approval shall be issued by the secretary of the Planning Commission upon demand.
- If the Planning Commission finds that the plat does not conform to the requirements of the subdivision regulations or the Preliminary Plat and is approved conditionally or tabled for further consideration, the applicant shall be advised of any required changes and/or additions the Codes Official shall notify the owner or owners of such fact in writing within five (5) working days of the meeting in which the plat was considered. If the plat conforms to the requirements of the regulations and the Preliminary Plat, there shall be endorsed thereon the fact that the plat has been submitted to and approved by the Planning Commission. The action of the Planning Commission on final subdivision plats shall be taken by a majority vote of the entire membership of the Planning Commission.
- G. Standards for Approval of a Final Plat: The Final Plat of a proposed subdivision shall be approved by the Planning Commission if the applicant proves by clear and convincing evidence that:
1. The plat meets the requirements of these regulations;
 2. The construction documents have been approved by the City Engineer; and

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3. The plat is in substantial compliance with the approved Preliminary Plat (Major and Staged Subdivisions) or Sketch Plat (Minor Subdivision). The Final Plat shall be deemed to be in substantial compliance with the approved Preliminary Plat provided any modification to the plat does not:
 - a. Vary the proposed gross residential density or intensity of use by more than five percent (5%) or involve a substantial reduction in the area set aside for common open space, nor the substantial relocation of such area, nor;
 - b. Substantially change the design of plat so as to significantly alter, as determined by the Planning Commission:
 - (1) Pedestrian or vehicular traffic flow.
 - (2) The arrangement of the site.
 - (3) The relation of open space to residential development.
 - (4) The proposed phasing of construction.

- H. The Governing Body shall accept or refuse the dedication of land for public purpose within thirty (30) days after the first meeting of the Governing Body following the date of the submission of the plat to the Designated Personnel from the Planning Commission. The Governing Body may defer action for an additional thirty (30) days for the purpose of allowing for modifications to comply with the requirements established by the Governing Body. No additional filing fees shall be assessed during that period. If the Governing Body defers or refuses such dedication, it shall advise the Planning Commission of the reasons therefore.

Section 4.05 Drainage Study

- A. General. A Drainage Study may be required for a Major and Staged Subdivisions at the time of Preliminary Plat application, as determined by the City Engineer.
- B. Submittal Procedure and Requirements.
 1. Submittal: A Drainage Study is to be submitted with the Preliminary Plat application.
 2. Submittal Materials: The subdivider shall submit copies of the Drainage Study in accordance with the City's Application and Review Schedule. These documents shall be submitted at the time of Preliminary Plat application.
- C. Drainage Study Contents.

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1. Existing Conditions: Information may be required by the City Engineer as deemed necessary to provide an accurate assessment of existing conditions. The existing conditions of the site must be evaluated to determine the impact of on and off-site drainage. As such, the following information may be required:
 - a. Area of the proposed subdivision.
 - b. Area of pervious and impervious surfaces within the proposed subdivision.
 - c. Hydrologic soil types within the proposed subdivision.
 - d. Map of the proposed subdivision indicating existing drainage areas.
 - e. Map of the surrounding area indicating drainage areas contributing run-off to the proposed subdivision, with time of concentration, and run-off coefficient or SCS curve numbers and calculations for each area.
 - f. 10-year and 100-year flow from each on-site drainage area, across the proposed subdivision from off-site areas, and to each discharge point in the proposed subdivision.
 - g. Nature and size of any downstream conveyance system.
 - h. The identification and explanation of any downstream restrictions or limitations.
 - i. Any assumptions used in the examination of existing conditions.

2. Proposed Conditions: The proposed condition of the site must be evaluated to determine the extent and capacity of on-site stormwater management systems. As such, the following information may be required by the City Engineer:
 - a. Approximated area of the pervious and impervious surfaces within the proposed subdivision upon build out.
 - b. Hydrologic soil types within the proposed subdivision.
 - c. Map of the proposed subdivision indicating proposed drainage areas.
 - d. Map of the surrounding area indicating drainage areas contributing run-off to the proposed subdivision, with time of concentration, and run-off coefficient or SCS curve numbers and calculations for each area.
 - e. 10-year and 100-year flow from each on-site drainage area, across the proposed subdivision from off-site areas, and to each discharge point in the proposed subdivision.

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- f. The size, material, slope and capacity of the proposed storm sewer.
- g. Location, area, depth and volume of detention area, and a drawing of such, including the discharge structure (required only if proposed).
- h. Inflow, outflow and elevation curves for the proposed system.
- i. The ability of the existing elements to convey proposed flows.
- j. The identification and explanation of any additional improvements proposed.
- k. Any assumptions used in the examination of existing conditions.
- l. The comparison of the existing and proposed flows from the site.

Section 4.06 Construction Documents

A. General.

- 1. Construction Documents must be submitted for all required improvements.
- 2. Upon the approval of the Preliminary Plat, the subdivider shall have prepared by a licensed professional engineer, Construction Documents for the required improvements.
- 3. Application: Construction Documents are to be submitted with any Final Plat application.
- 4. Submittal Materials: The subdivider shall submit copies of the construction drawings in accordance with the City's Application and Review Schedule. These documents shall be submitted at the time of Final Plat application.

B. Construction Documents Contents.

- 1. Plans, profiles, details, specifications and cost estimates for roadway and sidewalk construction, including plans and profiles for each street with a typical cross section of the roadway. The profiles of grade lines shall be shown to a scale of 1" = 50' horizontal, and 1" = 5' vertical. The City Engineer may require a larger format as necessary to show adequate detail. This information shall be shown on standard plan and profile sheets unless otherwise required. Where steep slopes exist, cross-sections of all proposed streets at one-hundred-foot stations may be required as follows: On a line at right angles to the center line of the street, and said elevation points shall be at the center line of the street, each property line and points twenty-five (feet) inside each property line.
- 2. Plans, profiles, details, specifications and cost estimates of proposed storm drainage improvements.

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3. Plans, profiles, details, specifications and cost estimates of proposed water distribution systems and proposed water supply facilities and hydrants, if any.
 4. Plans, profiles, details, specifications and cost estimates of sewerage systems and of any required sewage treatment facilities.
 5. Grading plans for all lots and other sites in the subdivision.
 6. Erosion control plan for the subdivision
 7. Copies of all State and Federal permits required to begin construction.
 8. When unusual site conditions exist, staff may require such additional plans, specifications and drawings as may be necessary for an adequate review of the improvements to be installed.
 9. All plans shall be based on City or U.S.G.S. datum for vertical control.
- C. Review of Plans: The City Engineer shall review all Construction Documents in order to determine that they comply with City design standards. The City Engineer shall notify the subdivider and the planning staff, in the event that the drawings do not so conform or comply, and shall specify the specific manner in which such drawings do not so comply. The subdivider shall then correct any defective drawings and resubmit the corrected drawings.
- D. Approval by Planning Commission: The Planning Commission shall approve a Final Plat only after consideration of the City Engineer's opinion that the drawings are consistent with the approved Sketch Plat and/or Preliminary Plat and comply with their design standards.

Section 4.07 Resubdivision of Land

- A. Procedure for Resubdivision. Whenever a developer desires to resubdivide an already approved final subdivision plat, the developer shall first obtain approval for the resubdivision by the same procedures prescribed for the subdivision of land.
- B. Resubdivision. Resubdivision includes:
1. Any change in any street layout or other public improvement;
 2. Any change in any lot line;
 3. Any change in the amount of land reserved for public use or the common use of lot owners; or
 4. Any change in any easements shown on the approved plat.

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- C. Waiver. The Planning Commission, after an express request for waiver, shall approve, approve conditionally or disapprove such request based upon staff recommendation, and other relevant considerations including, but not limited to the following:
1. The proposed changes to the Final Plat;
 2. The extent of development completed within the subdivision and the impact the proposed changes on such development;
 3. The impact of the proposed changes on surrounding development; and
 4. Conformance with the regulations herein.

B L A N K P A G E

Article Five LOT SPLITS

Section 5.01 General

- A. General. The intent of this section is to provide for the issuance of certificate of occupancy for lots divided into not more than two (2) tracts without having to replat or resubdivide said lot, providing that the resulting lots shall not again be divided without resubdividing. The Planning Commission may approve or disapprove lot splits in accordance with these regulations.
- B. Application Procedure. Requests for lot split approval shall be made by the owner of the land to the Codes Official. A scale drawing of the lots involved if there are no structures thereon, or if structures are located on any part of the lot being split, a certified survey, signed and sealed by a registered land surveyor, of the lot(s) and the location of the structure(s) thereon together with the precise nature, location and dimensions of the proposed lot split shall accompany the application. Copies shall be submitted in accordance with the City's Application and Review Schedule.
- C. Approval Guidelines. Approval or disapproval of lot splits shall be made based upon the following standards:
1. No lot split shall be approved if:
 - a. A new street or alley is needed or proposed.
 - b. A vacation of streets, alleys, setback lines, access control or easements is required or proposed.
 - c. If such action will result in significant increase in service requirements; i.e. utilities, schools, traffic control, streets, etc.; or will interfere with maintaining existing service levels, e.g., additional curb cuts, repaving, etc.
 - d. There is less street right-of-way than required by these regulations or the Comprehensive Plan unless such dedication can be made by separate instrument.
 - e. All easement requirements have not been satisfied.
 - f. If such split will result in a tract without direct access to a street.
 - g. A substandard-sized lot or parcel will be created.
 - h. If the lot has been previously split in accordance with these regulations.
 2. The Codes Official and City Engineer may require such additional requirements as deemed necessary to carry out the intent and purpose of the existing land development regulations and City policy.

- D. Action. The Codes Official and City Engineer shall, in writing either approve, with or without conditions, or disapprove the lot split within thirty (30) days of application. If approved, and after all conditions have been met, a certificate of approval shall be signed and furnished to the applicant. Such certificate of approval shall be affixed to the lot split survey. The applicant shall file a certified copy of the lot split and approval with the Miami County Register of Deeds, and the official designated to issue building or occupancy permits.
- E. Filing Fee and Costs.
1. A filing fee and deposit shall be charged and collected from the applicant in an amount as established by the Governing Body by ordinance.
 2. The costs of recording documents, publications, writs, planning consultant fees, and engineering costs are payable in addition to filing fees.

Section 5.02 Lot Line Adjustments

- A. Lot Line Adjustments.
1. An application for a lot line adjustment may be submitted to the Codes Official for consideration and approval if the proposed adjustment meets the following criteria:
 - a. The proposed lot line adjustment between owners of adjoining properties is solely for the purpose of adjustments in boundaries, or for the purpose of adjusting building lines.
 - b. Additional lots are not created.
 - c. No lot remaining after such lot line adjustment is less than the minimum lot sizes, setback and other lot standards required in the zoning ordinance.
 2. Lot line adjustment surveys shall contain all graphical submittal data as required by the Codes Official.

Section 5.03 Lot Consolidations

1. Lot Consolidations.
 - a. An application for a lot consolidation may be submitted to the Codes Official for consideration and approval if the proposed consolidation is of lots under a single ownership.
 - b. Lot consolidation surveys shall contain all graphical submittal data as required by the Codes Official.

Article Six IMPROVEMENTS, DEDICATIONS & DESIGN

Section 6.01 General Improvements.

- A. Conformance to Applicable Rules and Regulations. In addition to the requirements established in these regulations, all subdivision plats shall comply with the following laws, rules, and regulations:
1. All applicable statutory provisions.
 2. The zoning regulations, building codes, fire safety standards and all other applicable laws of the City of Osawatomie.
 3. The Comprehensive Plan, Street Classification Map, and Subdivision Regulations, including all streets, utility systems, and parks indicated in the Comprehensive Plan as adopted.
 4. The special requirements of these regulations and any rules of the Health Department and/ or State of Kansas, Miami County or other appropriate agencies.
 5. The rules of the Kansas Department of Transportation if the subdivision or any lot contained therein abuts a state highway or connecting street.
 6. The standards, regulations and policies adopted by all boards, commissions, agencies, and officials of the City of Osawatomie.
 7. All pertinent standards contained within any and all applicable overlay districts or development specific guidelines as adopted.
 8. Plat approval may be withheld if a subdivision is not in conformity with the above laws, regulations, guidelines, and policies as well as the purposes of these regulations established in Section 1.06 of these regulations.

Section 6.02 Adequate Public Facilities

- A. General. In order to ensure: that property is developed only with appropriate urban services and in accordance with the service plans of the City; that subdivision of land is not scattered or premature involving danger or injury to the public health, safety, welfare or prosperity by reason of lack of adequate water supply, wastewater disposal, stormwater disposal, roads, right-of-way, or other public services; or that would necessitate an excessive expenditure of public funds for the supply of such services (such as undue maintenance costs for inadequate roads or storm water drainage), no Preliminary Plat shall be approved unless the City determines that public facilities will be adequate to support and service the area of the proposed subdivision. The applicant shall, at the request of the City, submit sufficient information and data on the proposed subdivision to demonstrate the expected impact on and use of public facilities by possible uses of said subdivision.

B. Standards.

1. **Water Supply.** There will be an adequate public water supply available for the proposed occupancy. An adequate public water supply shall include potable water for consumption and other inside and outside uses and adequate water pressure for fire flow to meet established standards for fire protection
2. **Sanitary Sewer.** There will be adequate connections to public wastewater disposal systems with adequate capacity to handle the type and volume of flow from the proposed occupancy with evidence that the existing system has capacity availability to accept the additional flows proposed. Limited, residential development may be served by a septic system subject to compliance with the regulations specified herein.
3. **Storm Sewer.** The proposed storm sewer system, both on-site and off-site, will be adequate to carry projected peak flows in a design storm without causing damage to downstream public or private property. The subdivider shall install culverts, storm sewers, rip-rap slopes, stabilized ditches, storm water detention facilities and other improvements necessary to adequately handle storm water. All improvements shall comply with the minimum standards of these regulations.
4. **Stormwater Management.** Drainage improvements shall accommodate potential runoff from the entire upstream drainage area and shall be designed to prevent increases in downstream flooding. The City Engineer / or the construction of offsite drainage improvements to mitigate the impacts of the proposed developments.
5. **Roads.** Proposed roads shall provide a safe, convenient, and functional system for vehicular, pedestrian, and bicycle circulation; shall be properly related to the comprehensive plan; and shall be appropriate for the particular traffic characteristics of each proposed development.
6. **Rights-of-Way.** Right-of-way shall be provided as shown in the Comprehensive Plan and as required by these regulations.
7. **Other Public Services.** Other public services such as schools, police and fire protection, and emergency services, affected by the proposed development will be substantially adequate to serve the development at existing levels of service.

Section 6.03 Lots

- A. **Lot Orientation.** All lots shall front on a public street. The lot line common to the street right-of-way shall be the front line. All lots shall face the front line and a similar line across the street. On corner lots, the side with the least distance in measurement shall constitute the front side.
- B. **Lot Width.** The width of lots shall conform to those of the Zoning Regulations and shall be measured at the front setback line.

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- C. Lot Arrangement. The lot arrangement shall be such that there will be no foreseeable difficulties, for reasons of topography or other conditions, in building on all lots in compliance with the City Zoning Regulations and Health Department Regulations and in providing driveway access to buildings on the lots from an approved street. Lots shall contain a building site completely free from the danger of flooding. Except where unfeasible, side lot lines shall be at right angles to straight street lines and radial to curved street lines. Wherever feasible, lots shall be arranged so that the rear line does not abut the side line of an adjacent lot.
- D. Lot Dimensions. Lot dimensions shall comply with the minimum standards of the Zoning Regulations. Dimensions of corner lots shall be large enough to allow for erection of buildings, observing the minimum front-yard setback from both streets. Depth and width of properties reserved or laid out for business, commercial, or industrial purposes shall be adequate to provide for the off-street parking and loading facilities required for the type of use and development contemplated, as established in the Zoning Regulations.
- E. Double Frontage Lots and Access to Lots.
1. Double Frontage Lots. Double frontage and reversed frontage lots shall be avoided except where necessary to provide separation of residential development from arterial streets or to overcome specific disadvantages of topography and orientation.
 2. Access from Arterial Streets. Lots shall not, in general, derive access exclusively from an arterial street. Where driveway access from an arterial street may be necessary for several adjoining lots, the Planning Commission may require that such lots be served by a combined access drive in order to limit possible traffic hazards on the street. Where possible, driveways should be designed and arranged so as to avoid requiring vehicles to back into traffic on an arterial street.
- F. Soil Preservation and Final Grading. No certificate of occupancy shall be issued until final grading has been completed in accordance with the approved final subdivision plat and the lot covered with soil with an average depth of at least six (6) inches which shall contain no particles more than two (2) inches in diameter over the entire area of the lot, except that portion covered by buildings or included in streets, or where the grade has not been changed or natural vegetation has not been seriously damaged. Topsoil shall not be removed from residential lots or used as spoil, but shall be redistributed so as to provide at least six (6) inches of cover on the lots and at least four (4) inches of cover between the sidewalks and curbs, and shall be stabilized by seeding or planting per the Landscaping and Buffering requirements of the Zoning Regulations.
- G. Lot Drainage. Lots shall be laid out so as to provide positive drainage away from all buildings, and individual lot drainage shall be coordinated with the general storm drainage pattern for the area.
- H. Debris and Waste. No cut trees, timber, debris, rocks, stones, junk, rubbish, or other waste materials of any kind, or earth/soil containing such shall be buried in any land, or left or deposited on any lot or street at the time of the issuance of a certificate of occupancy, and removal of those items and materials shall be required prior to issuance of any certificate of occupancy on a subdivision. No items and materials as described in the preceding sentence nor excess earth/soil

shall be left or deposited in any area of the subdivision at the time of expiration of any subdivision improvement agreement or dedication of public improvements, whichever is sooner.

- I. Waterbodies and Watercourses. If a tract being subdivided contains a waterbody, watercourse or portion thereof, lot lines shall be so drawn as to distribute the entire ownership of the waterbody or watercourse among the ownership of adjacent lots. The Planning Commission may approve an alternative plan whereby the ownership of and responsibility for safe maintenance of the waterbody or watercourse is so placed that it will not become a local government responsibility. No more than twenty-five percent (25%) of the minimum area of a lot required under the Zoning Regulations may be satisfied by land that is under water or subject to periodic flooding. Such land(s) shall not be computed in determining the number of lots to be utilized for average density procedures. Where a watercourse separates the buildable area of a lot from the street by which it has access, provisions shall be made for installation of a culvert or other structure, of design approved by the City Engineer.

Section 6.04 Blocks

- A. Connectivity: Intersecting streets shall be provided at such intervals as to serve cross traffic adequately and to meet existing streets in the neighborhood.
- B. Width: In residential subdivisions, blocks shall have sufficient width to provide for two (2) tiers of lots of appropriate depths. Exceptions to this prescribed block width shall be permitted in blocks adjacent to arterial or collector streets, railroads, or waterways. Blocks intended for business or industrial use shall be on such width as may be considered most suitable for the prospective use.
- C. Length: In residential subdivisions, the lengths, widths, and shapes of blocks shall be such as are appropriate for the locality and the type of development contemplated, but block shall not exceed one thousand two hundred (1,200) feet or twelve (12) times the minimum lot width required in the zoning district, except that a greater length may be permitted where topography or other conditions justify a departure from this maximum. Block length shall not be less than three hundred (300) feet in length. Blocks intended for business or industrial use shall be on such length as may be considered most suitable for the prospective use.
- D. Easements: In long blocks, the Planning Commission may require the reservation of an easement through the block to accommodate utilities, drainage facilities, or pedestrian traffic.
- E. Pedestrian Access: Pedestrianways or crosswalks, not less than ten (10) feet wide, may be required by the City through the center of blocks more than eight hundred (800) feet long or where deemed essential to provide circulation or access to schools, playgrounds, shopping centers, transportation, or other community facilities.

Section 6.05 Streets

- A. General Requirements.

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1. Relationship to Adjoining Street Systems: The arrangement of streets in new subdivisions shall make provisions for the continuation of the principal existing streets in adjoining additions (or their proper projection where adjoining property is not subdivided) insofar as they may be necessary for convenient movement of traffic, effective fire protection, efficient provision of utilities, or where the continuation is in accordance with the City of Osawatomie Major Street Plan of the Comprehensive Plan. The width of such streets in new subdivisions shall be not less than the minimum street widths established herein. Alleys, when required, and street arrangement must cause no hardship to owners of adjoining property when they plat their land and seek to provide for convenient access to it. Whenever there exists a dedicated or platted half street or alley adjacent to the tract to be subdivided, the other half of the street or alley shall be platted and dedicated as a public way.

Where topographical conditions make such street continuance or conformity impracticable, the Planning Commission may approve an alternative layout.

2. Frontage on Improved Roads. No subdivision shall be approved unless the area to be subdivided shall have frontage on and access from an existing street as follows:
 - a. An existing street as shown on the city's current street map; or
 - b. An existing state, county, or township street or highway; or
 - c. A street shown upon a plat approved by the Planning Commission and recorded in the Miami County Register of Deeds' office. Such street or highway must be suitably improved as required by the highway rules, regulations, specifications, or orders, or be secured by a performance bond required under these subdivision regulations, with the width and right-of-way required by these subdivision regulations. Wherever the area to be subdivided is to utilize existing road frontage, the road shall be suitably improved as provided above.
3. Grading and Improvement Plan. Roads shall be graded and improved and conform to the City of Osawatomie construction standards and specifications and shall be approved as to design and specifications by the City Engineer, in accordance with the construction plans required to be submitted prior to Final Plat approval.
4. Classification. All roads shall be classified as an arterial, collector or local street. In classifying roads, the Planning Commission shall consider the Major Street Classification Map of the Comprehensive Plan and the projected traffic demands.
5. Arrangement.
 - a. Streets shall be related appropriately to the topography. Grades of streets shall conform as closely as possible to the original topography. A combination of steep grades and curves shall be avoided. All streets shall be arranged so as to obtain as many building sites as possible at, or above, the grades of the streets. Specific standards are contained in the design standards of these regulations.

- b. Arterial and collector streets through subdivisions shall conform to the major street plan of the Comprehensive Plan as adopted by the Planning Commission and Governing Body. All arterial and collector streets shall be properly related to special traffic generators such as industries, business districts, schools, churches, and shopping centers; to population densities; and to the pattern of existing and proposed land uses.
 - c. Local streets shall be laid out to conform as much as possible to the topography to discourage use by through traffic, to permit efficient drainage and utility systems, and to require the minimum number of streets necessary to provide convenient and safe access to property.
 - d. Proposed streets shall be extended to the boundary lines of the tract to be subdivided, unless prevented by topography or other physical conditions, or unless in the opinion of the Planning Commission such extension is not necessary or desirable for the coordination of the layout of the subdivision with the existing layout or the most advantageous future development of adjacent tracks.
 - e. In business and industrial developments, the streets and other accessways shall be planned in connection with the grouping of buildings, location of rail facilities, and the provision of alleys, truck loading and maneuvering areas, and walks and parking areas so as to minimize conflict of movement between the various types of traffic, including pedestrian.
6. Where the plat submitted covers only a portion of the contiguous land owned by the subdivider, a sketch of the prospective future street system of the entire ownership shall be submitted.
7. Access to Arterial Streets. Where a subdivision borders on or contains an existing or proposed arterial, the Planning Commission may require that access to such streets be limited by one of the following means:
- a. The subdivision of lots so as to back onto the primary arterial and front onto a parallel local street; no access shall be provided from the arterial, and screening shall be provided in a strip of land along the rear property line of such lots.
 - b. A series of cul-de-sacs, U-shaped streets, or short loops entered from and designed generally at right angles to such a parallel street, with the rear lines of their terminal lots backing onto the primary arterial.
 - c. A marginal access or service road (separated from the arterial by a planting or grass strip and having access at suitable points).
8. Numbers and Names. All streets that are oriented in an east-west alignment shall be numbered streets. The numbering of streets shall be consistent with the established addressing grid system. All streets that are oriented in a north-south alignment shall be named. Streets that are in alignment with other already existing and named streets shall

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bear the names of the existing streets. Names shall be sufficiently different in sound and spelling from other street names in the municipality so as not to cause confusion. The Planning Commission shall approve street names upon recommendation of the Codes Official at the time of preliminary approval. The Codes Official shall consult the local emergency communications department (911) prior to rendering its recommendation to the Planning Commission.

9. Street Signs. The developer shall pay to the City the cost of purchasing and installation of street signs at all intersections within a subdivision. The term “street sign” as used herein shall include all traffic control signs street name signs and any other street signage that is to be owned and maintained by the City after installation. The City of Osawatomie shall install all street signs before issuance of certificates of occupancy for any residence on the streets approved. Street name signs are to be placed at all intersections within or abutting the subdivision, the type and location of which to be approved by the City.
10. Street Lights. Street lights shall be installed as required by the City after consideration of Standard Specifications and Design Criteria recommended by the City Engineer.
11. Reserve Strips. The creation of reserve strips shall not be permitted adjacent to a proposed street in such a manner as to deny access from adjacent property to the street.
12. Dead-End Roads.
 - a. Dead-End Roads (Temporary). If the adjacent property is undeveloped and a street more than one lot deep or on which lots front must temporarily be a dead-end street, the right-of-way and road improvement shall be extended to the property line. A temporary dust-proof turnaround having a radius of at least fifty (50) feet shall be provided on all temporary dead-end streets. When a temporary turnaround is required, a notation shall be added on the subdivision plat indicating that land outside the normal street right-of-way shall revert to abutting property owners whenever the street is continued. The Planning Commission may limit the length of temporary dead-end streets in accordance with the design standards of these regulations.
 - b. Dead-End Roads (Permanent). Where a road does not extend beyond the boundary of the subdivision and its continuation is not required by the City for access to adjoining property, its terminus shall normally not be nearer to such boundary than fifty (50) feet. However, the Planning Commission may require the reservation of an appropriate easement to accommodate drainage facilities, pedestrian traffic, or utilities. A cul-de-sac turnaround shall be provided at the end of a permanent dead-end street. An adequate turnaround of not less than a sixty (60) foot radius right-of-way shall be provided at the closed end of any dead-end street that is longer than one (1) lot in length and that is designed to permanently remain as a dead-end street. Cul-de-sacs shall provide a paved turnaround having a street radius, at the back of curb, of fifty (50) feet. Such street segment shall not exceed five-hundred (500) feet in length, measured from the centerline of an intersection of a cross street to the center of the cul-de-sac; except that, such streets designed to serve no more than twenty-five (25)

residential lots may be permitted to extend up to one-thousand (1,000) feet in length in the “R-O” zoning district. For greater convenience to traffic and more effective police and fire protection, parking shall not be permitted in the bulb of permanent dead-end streets.

- 13. Private Streets: No private streets shall be permitted in the City of Osawatomie, except as approved by the City Council. Such streets shall meet the minimum standards herein, and maintenance assurances shall be provided.

B. Street Design Standards.

1. General.

- a. In order to provide for streets of suitable location, width, and improvement to accommodate prospective traffic and afford satisfactory access to police, fire fighting, snow removal, sanitation, and road-maintenance equipment, and to coordinate roads so as to compose a convenient system and avoid undue hardships to adjoining properties, the following design standards for streets are hereby required.

- 2. Unless otherwise specified within these regulations, all streets shall be designed and constructed in accordance with the standards specified in the Standard Specifications and Design Criteria as required by the City after consideration of Standard Specifications and Design Criteria recommended by the City Engineer.

3. Street Alignment.

- a. Reverse Curves: On streets with reverse curves, a reasonable tangent shall be provided between curves to permit a smooth flow of traffic.
- b. Where there is a deflection angle of more than ten (10) degrees in the alignment of a street, a curve with a radius adequate to ensure safe sight distance shall be made using the following guidelines:

Major Road Type	Clear Safe Sight Distance Guideline
Arterial	215 '
Collector	170 '
Residential	130 '

- c. Every change in grade shall be connected by a vertical curve constructed so as to afford recommended minimum required site stopping distance. Said site-

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stopping distance being measured from a driver's eye level that is assumed to be three and one half (3½) feet above the pavement surface, to an object six (6) inches high on the pavement.

4. Street Grades and Elevations. The minimum and maximum street grades for streets and alleys, dedicated and accepted, shall be one (1) percent and seven (7) percent, respectively.
5. Excess Right-of-Way. Right-of-way widths in excess of the standards designated in these regulations shall be required whenever, due to topography, additional width is necessary to provide adequate slopes. Such slopes shall not be in excess of three-to-one.
6. Intersections.
 - a. Streets shall be laid out so as to intersect as nearly as possible at right angles. A proposed intersection of two (2) streets at an angle of less than seventy-five (75) degrees shall not be acceptable. Any street that does not approach an intersecting street at a right angle should be curved approaching an intersection and should be approximately at right angles for at least one hundred (100) feet from such intersection. Not more than two (2) streets shall intersect at anyone point unless specifically approved by the Planning Commission as recommended by the City Engineer.
 - b. Proposed new intersections along one side of an existing street shall, wherever practicable, coincide with any existing intersections on the opposite side of such street. Street jogs with centerline offsets of less than one hundred twenty-five (125) feet shall not be permitted, except where the intersected street has separated dual drives without median breaks at either intersection. Where streets intersect arterial or collector streets, their alignment shall be continuous unless specifically approved by the Planning Commission as recommended by the City Engineer.
 - c. Minimum curb radius at the intersection of two (2) streets shall be at least twenty-five (25) feet. Alley intersections and abrupt changes in alignment within a block shall have the corners cut off in accordance with standard engineering practices to permit safe vehicular movement. Whenever necessary to permit the construction of a curb having a desirable radius without reducing the sidewalk at a street corner to less than normal width, the property line at such street corner shall be rounded or otherwise set back sufficiently to permit such curb construction.
 - d. Intersections shall be designed with a flat grade wherever practical. In hilly or rolling areas, at the approach to an intersection, a leveling area shall be provided having not greater than a two percent (2%) grade at a distance of sixty (60) feet, measured from the nearest right-of-way line of the intersecting street.
 - e. Where any street intersection will involve earth banks or existing vegetation inside any lot corner that would create a traffic hazard by limiting visibility, the

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developer shall cut such ground and/ or vegetation (including trees) in connection with the grading of the public right-of-way to the extent deemed necessary to provide an adequate sight distance as specified by the Sight Triangle standard of the Zoning Regulations.

- f. No lot or other parcel of land that abuts on and has access to either a local or collector shall have a service drive, curb cut, or other means of access to an arterial street within seventy-five (75) feet of the right-of-way of any street that intersects such arterial street on the side on which such lot or parcel is located.
- 7. Bridges. Bridges of primary benefit to the applicant, as determined by the Planning Commission, shall be constructed at the full expense of the applicant without reimbursement from the City of Osawatomie.
- 8. Road Dedications and Reservations.
 - a. New Perimeter Streets.
 - (1) The dedication of right-of-way for new streets measured from lot line to lot line shall be as shown on the City Comprehensive Plan and shall meet the following standards.

Minimum Street Right-of-Way	
Street Type	Minimum R.O.W. Width (Feet)
Marginal Access	50
Local Street	50
Collector	60-80
Arterial	80-120

- (2) Street systems in new subdivisions shall be laid out so as to eliminate or avoid new perimeter half-streets. Where an existing half-street is adjacent to a new subdivision, the other half of the street shall be improved and dedicated by the subdivider. The Planning Commission may authorize a new perimeter street where the subdivider improves and dedicates the entire required street right-of-way width within its own subdivision boundaries.
 - b. Widening and Realignment of Existing Streets. Where a subdivision borders an existing narrow road or when the Comprehensive Plan, Capital Improvement Plan, or zoning setback regulations indicate plans for realignment or widening a road that would require use of some of the land in the subdivision, the applicant shall be required to improve and dedicate at its expense those areas for widening or realignment of those roads in accordance with the minimum requirements of these regulations. Frontage roads and streets as described above shall be improved and dedicated by the applicant at its own expense to the full width as required by these subdivision regulations when the applicant's development

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activities contribute to the need for the road expansion. Land reserved for any road purposes may not be counted in satisfying yard or area requirements of the Zoning Regulations whether the land is to be dedicated to the municipality in fee simple title or an easement is granted to the City of Osawatomie.

C. Street Improvements

1. Stormwater Conveyance; Curbs and Gutters. The subdivider shall provide stormwater conveyance and/or curbs and gutters as required by the City after consideration of Standard Specifications and Design Criteria recommended by the City Engineer. Curbs shall not be less than six (6) inches in depth and shall be constructed of Portland cement concrete. A rolled Portland cement concrete curb shall be used except where a vertical curb is specified by the City Engineer. Backfill shall be higher than the curb in order to insure that surface water drains into the storm drainage system.

2. Street Surfacing.

a. After sanitary sewer, storm sewer and water utilities have been installed by the developer, the developer shall surface or cause to be surfaced roadways to the following minimum widths as measured from back of curb to back of curb:

Minimum Street Widths	
Street Type	Minimum Width
Marginal Access	28'
Local Street	30'
Collector	38'
Arterial	48'

b. All streets must be hard surfaced. All paving must be provided with a stabilized sub-base. The applicant shall install curb and gutter facilities as required by the City after consideration of Standard Specifications and Design Criteria recommended by the City Engineer. Adequate provision shall be made for culverts, drains, and bridges. All road pavement, shoulders, drainage improvements and structures, curbs, turnarounds, and sidewalks shall be incorporated into the construction plans required to be submitted by the developer for plat approval.

3. Grading

a. All streets, roads, and alleys shall be graded to their full width by the subdivider so that street pavements and sidewalks can be constructed on the same level plane. Deviation from this standard due to special topographical conditions may be allowed by approval of the City Engineer and Planning Commission.

b. Preparation of the Subgrade. Before grading is started, the entire right-of-way area shall first be cleared of all trees, stumps, roots, bushes, and other objectionable materials and of all trees not intended for preservation. The

subgrade shall be properly shaped, rolled, and uniformly compacted to conform with the accepted cross section and grades.

- (1) Cuts. In cuts, all tree stumps, boulders, organic materials, soft clay, spongy material, and other objectionable materials shall be removed to a depth of at least two (2) feet below the graded surface. Rock, when encountered, shall be removed to a depth of at least twelve (12) inches below the graded surface.
- (2) Fill. In fill, all tree stumps, boulders, organic materials, soft clay, spongy material, and other objectionable materials shall be removed to a depth of at least two (2) feet below the natural ground surface.
- (3) Disposal of Objectionable Matter. The objectionable matter required to be removed from cuts and fills shall be removed from the right-of-way area and be disposed of in such a manner that it will not become incorporated in fills or hinder proper operation of the drainage system.

Section 6.06 Storm Water Conveyance

A. General Requirements.

1. The subdivider shall provide storm water conveyance as required by the City after consideration of Standard Specifications and Design Criteria recommended by the City Engineer. Unless otherwise specified within these regulations, an adequate storm sewer drainage system shall include storm sewer pipes, culverts, intersectional drains, drop inlets, bridges, etc. for proper drainage of storm water; and shall be designed by methods required by the City Engineer; and a copy of design computations shall be submitted along with plans.
2. The Planning Commission shall not recommend for approval any plat of subdivision that does not make adequate provision for storm and flood water runoff channels or basins. The storm water drainage system shall be separate and independent of any sanitary sewer system. Inlets shall be provided so that surface water is not carried across or around any intersection, nor for a distance of more than 600 feet in the gutter. When calculations indicate that curb capacities are exceeded at a point, no further allowance shall be made for flow beyond that point, and basins shall be used to intercept flow at that point. Surface water drainage patterns shall be shown for each and every lot and block.

B. Nature of Storm Water Facilities.

1. Location. The applicant may be required by the City Engineer to construct facilities to convey any spring or surface water that may exist either previously to, or as a result of the subdivision. Such drainage facilities shall be located in the road right-of-way where feasible, or in perpetual unobstructed easements.
2. Accessibility to Public Storm Sewers.

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- a. If a connection to a public storm sewer will be provided eventually, as determined by the City Engineer and the Planning Commission, the developer shall make arrangements for future storm water disposal by a public utility system at the time the plat receives final approval. Provision for such connection shall be incorporated by inclusion in the subdivision improvement agreement required for the subdivision plat.
3. **Accommodation of Upstream Drainage Areas.** A culvert or other drainage facility shall in each case be large enough to accommodate potential runoff from its entire upstream drainage area, whether inside or outside the subdivision. The applicant shall determine the necessary size of the facility, assuming conditions of maximum potential watershed development permitted by the Zoning Regulations. This determination shall be verified and approved by the City Engineer.
4. **Effect on Downstream Drainage Areas.** The applicant shall determine the effect of the subdivision on existing downstream drainage facilities outside the area of the subdivision. This determination shall be verified by the City Engineer. Drainage studies together with such other studies as shall be appropriate, shall serve as a guide to needed improvements. Where it is anticipated that the additional runoff incident to the development of the subdivision will overload an existing downstream drainage facility, the Planning Commission may withhold approval of the subdivision until provision has been made for the expansion of the existing downstream drainage facility. No subdivision shall be approved unless adequate drainage will be provided to an adequate drainage watercourse or facility.
5. **Areas of Poor Drainage.** Whenever a plat is submitted for an area that is subject to flooding, the Planning Commission may approve such subdivision provided that the applicant fills the affected area of the subdivision to an elevation sufficient to place the elevation of streets and lots at a minimum of twenty four (24) inches above the elevation of the one hundred (100) year floodplain. A copy of the required floodplain fill permit shall be submitted prior to the issuance of a certificate of occupancy. The plat of the subdivision shall provide for an overflow zone along the bank of any stream or watercourse, in a width that shall be sufficient in times of high water to contain or move the water, and no fill shall be placed in the overflow zone nor shall any structure be erected or placed in the overflow zone. The boundaries of the overflow zone shall be subject to approval by the City Engineer. The Planning Commission may deny subdivision approval for areas of extremely poor drainage.
6. **Floodplain Areas.** The Planning Commission may, when it deems it necessary for the health, safety, or welfare of the present and future population of the area and necessary to the conservation of water, drainage, and sanitary facilities, prohibit the subdivision of any portion of the property that lies within the floodplain of any stream or drainage course. These floodplain areas shall be preserved from any and all destruction or damage resulting from clearing, grading, or dumping of earth, waste material, or stumps, except at the discretion of the Planning Commission.

C. Dedication of Drainage Easements.

1. General Requirements. When a subdivision is traversed by a watercourse, drainageway, channel, or stream there shall be provided a storm water easement or drainage right-of-way conforming substantially to the lines of such watercourse, and of such width and construction as will be adequate for the purpose.

2. Drainage Easements.
 - a. Where topography or other conditions are such as to make impractical the inclusion of drainage facilities within road rights-of-way, perpetual, unobstructed easements at least fifteen (15) feet in width for drainage facilities shall be provided across property outside the road lines and with satisfactory access to the road. Easements shall be indicated on the plat. Drainage easements shall extend from the road to a natural watercourse or to other drainage facilities.

 - b. The applicant shall dedicate, either in fee simple title or by a drainage or conservation easement, land on both sides of existing watercourses to a distance to be determined by the City Engineer and the Planning Commission.

 - c. Low-lying lands along watercourses subject to flooding or overflowing during storm periods, whether or not included in areas for dedication, shall be preserved and retained in their natural state as drainage ways.

Section 6.07 Sanitary Sewers

- A. General Requirements. The applicant shall install sanitary sewer facilities as required by the City after consideration of Standard Specifications and Design Criteria recommended by the City Engineer; and in accordance with the rules, regulations, and standards of the Kansas Department of Health and Environment, unless otherwise specified within these regulations. Necessary action shall be taken by the applicant to extend or create a sanitary sewer district for the purpose of providing sewerage facilities to the subdivision when no district exists for the land to be subdivided.

- B. High-Density Residential and Nonresidential Districts. Sanitary sewerage facilities shall connect with public sanitary sewerage systems. Sewers shall be installed to serve each lot. No individual disposal system or treatment plants (private or group disposal systems) shall be permitted.

- C. Low- and Medium-Density Residential Districts. Sanitary sewerage systems shall be constructed as follows:
 1. When a public sanitary sewerage system is reasonably accessible either by gravity flow or by other constructed means, the applicant shall connect with same and provide sewers accessible to each lot in the subdivision within one-quarter (1/4) mile.

 2. When public sanitary sewerage systems are not reasonably accessible but will become available within a reasonable time (not to exceed fifteen (15) years), the applicant may choose one of the following alternatives:

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- a. Central sewerage system with the maintenance cost to be assessed against each property benefited. Where plans for future public sanitary sewerage systems exist, the applicant shall design connections to the public system and dedicate easements to accommodate such. In addition a covenant of non-opposition to future improvements shall be submitted. Adequate soil conditions must exist to accommodate the system.; or
 - b. Individual disposal systems. Where plans for future public sanitary sewerage systems exist, the applicant shall design connections to the public system and dedicate easements to accommodate such. In addition a covenant of non-opposition to future improvements shall be submitted. Adequate soil conditions must exist to accommodate each individual lot or subdivision as applicable.
3. When sanitary sewer systems are not reasonably accessible and will not become available for a period in excess of fifteen (15) years, the applicant may install sewerage systems as follows:
- a. Medium-Density Residential Districts. Only a central sewerage system may be constructed. No individual disposal system will be permitted. Where plans for future public sanitary sewerage systems exist, the applicant shall design connections to the public system and dedicate easements to accommodate such. In addition a covenant of non-opposition to future improvements shall be submitted. Adequate soil conditions must exist to accommodate the system.
 - b. Low-Density Residential District. Individual disposal systems or central sewerage systems may be used. Where plans for future public sanitary sewerage systems exist, the applicant shall design connections to the public system and dedicate easements to accommodate such. In addition a covenant of non-opposition to future improvements shall be submitted. Adequate soil conditions must exist to accommodate each individual lot or subdivision as applicable.
- D. Individual disposal system requirements. If public sewer facilities are not available and individual disposal systems are proposed, minimum lot areas shall conform to the requirements of the Zoning Regulations unless additional area is required to assure adequate soil conditions to serve each individual lot or subdivision as applicable. Percolation tests and test holes shall be made as directed by the Codes Official. The individual disposal system, including the size of the septic tanks and size of the tile fields or other secondary treatment devise shall be approved by the Health Department.

Section 6.08 Water Supply

- A. The subdivider shall construct a complete water distribution system that shall adequately serve all lots. The system shall include fire hydrants spaced no more than five-hundred (500) feet apart and at high points in the line, or as otherwise necessary to ensure that all lots are within two hundred-fifty (250) feet of a hydrant, unless otherwise approved by the City Engineer and Fire Chief. This system shall be properly connected with the public water supply. The Planning

Commission may deny subdivision approval for areas that cannot be served by adequate water supply and pressure.

To eliminate future street openings, all underground utilities for water distribution system and fire hydrants, together with the fire hydrants themselves, and all other supply improvements shall be installed before any final paving of a street shown on a plat.

Section 6.09 Utilities

- A. Location. All utility facilities, including but not limited to gas, electric power, telephone, and CATV cables, shall be located in dedicated public access easements or street rights-of-way. All utility facilities existing and proposed throughout the subdivision shall be shown on the Preliminary Plat. Underground service connections to the street property line of each platted lot shall be installed at the subdivider's expense. At the discretion of the Planning Commission, the requirement for service connections to each lot may be waived in the case of adjoining lots to be retained in single ownership and intended to be developed for the same primary use.

- B. Easements.
 - 1. Easements centered on rear lot lines shall be provided for utilities (private and municipal) and such easements shall be at least twenty (20) feet wide (10 feet each side). Proper coordination shall be established between the subdivider and the applicable utility companies for the establishment of utility easements established in adjoining properties.
 - 2. When topographical or other conditions are such as to make impractical the inclusion of utilities within the rear lot lines, perpetual unobstructed easements at least fifteen (15) feet wide (7.5 feet each side) shall be provided along side lot lines with satisfactory access to the road or rear lot lines as needed. Easements shall be indicated on the plat.

Section 6.10 Sidewalks

- A. Required Improvements.
 - 1. Sidewalks shall be included within the dedicated non-pavement right-of-way of all roads as follows:
 - a. Arterial Streets. Eight (8) foot sidewalks on both sides of the street.
 - b. Collector and Local Streets. Five (5) foot sidewalks shall be required on one side of all Collector, Local and Marginal Access Streets. Sidewalks on local and marginal access streets shall generally be located on the north and east sides of the streets.
 - 2. Sidewalks shall be located one foot inside the street right-of-way. Curb cuts meeting the minimum standards of the Americans with Disabilities Act shall be provided where sidewalks meet street curbs or connection to another sidewalk across a street is required.

City Of Osawatomie Subdivision Regulations

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Crosswalks across collector or arterial streets shall be clearly marked with approved paint or other more permanent means such as use of unique paving patterns as approved by the City Engineer.

- B. Pedestrian Accesses. The Planning Commission may require, in order to facilitate pedestrian access from the roads to schools, parks, playgrounds, or other nearby roads, perpetual unobstructed easements at least ten (10) feet in width to accommodate a paved walkway of five (5) to eight (8) feet.

B L A N K P A G E

Article Seven IMPROVEMENT PROCEDURES

Section 7.01 Improvement Completion and Improvement Agreement

- A. Completion of Improvements. Before the final subdivision plat is signed by the City, all applicants shall be required to complete, in accordance with the approved construction drawings and to the satisfaction of the City Engineer, all the street, sanitary and other public improvements, including lot improvements on the individual lots of the subdivision, as required in these regulations, specified in the Final Plat and as approved by the Planning Commission, and to dedicate those public improvements to the City of Osawatomie, free and clear of all liens and encumbrances on the dedicated property and public improvements.
- B. Subdivision Improvement Agreement and Guarantee.
1. Agreement. The Governing Body in its sole discretion may waive the requirement that the applicant complete and dedicate all public improvements prior to the signing of the Final Plat and, as an alternative, permit the applicant to enter into a subdivision improvement agreement by which the subdivider covenants to complete all required public improvements no later than two (2) years following the date of the approval of the improvement agreement. The applicant shall covenant to maintain each required public improvement for a period of one (1) year following the acceptance by the Governing Body of the dedication of that completed public improvement. In addition, the covenant shall warrant that all required public improvements will be free from defect for a period of two (2) years following the acceptance by the Governing Body of the last completed public improvement. The subdivision improvement agreement shall contain such other terms and conditions agreed to by the applicant and the Governing Body, provided that:
 - (a) The subdivider shall install or provide for the installation of all or a portion of the following facilities and improvements if required by the development policy of the governing body or the provisions of this section: curbs and gutters, streets, alleys, water systems, sanitary and storm sewer facilities, pedestrian-ways, off-street parking areas, sidewalks and street lighting.
 - (b) No plat shall be approved for any subdivision prior to the Planning Commission's endorsement on a plat that such plat conforms to the requirements of this article; provided that, the subdivider has presented evidence that one of the following will be submitted to the governing body:
 - i. A written certification from the city engineer that all required public improvements in that portion of a subdivision authorized for development have been completed;
 - ii. A corporate surety performance bond from a corporation qualified to do business in Kansas, in a form satisfactory to the governing body, in an amount estimated by applicant and verified by the city engineer to be sufficient to assure the governing body of the construction and installation of the uncompleted portion of required public improvements in accordance with the applicable improvement standards;

- iii. A cash escrow deposit in an amount estimated by the city engineer to be sufficient to assure the governing body of the construction and installation of the uncompleted portion of the required public improvements in accordance with applicable improvement standards.
 - (c) The governing body may, at its discretion, determine which of such methods for ensuring completion of improvements shall be presented by the subdivider.
 - 2. Covenants to Run with the Land. The subdivision improvement agreement shall provide that the covenants contained in the agreement shall run with the land and bind all successors, heirs, and assignees of the subdivider. The subdivision improvement agreement will be adopted by the Governing Body and shall be recorded in the Office of the Miami County Register of Deeds.
- C. Escrow Deposit
 - 1. The amount of a cash escrow shall be deposited by the governing body in a special escrow account in the commercial bank in which the funds of the governing body are then deposited. This escrow deposit shall be invested and reinvested by such bank in short term government securities, the interest or discount from which will be paid to the subdivider upon final release of such escrow deposit as hereinafter provided.
 - 2. The improvements shall be made within 20 years from the time cash is placed into escrow. In the event that the improvements are not made within the time stated above, the funds from the escrow account together with the actual accrued interest shall be returned to the developer or his successors in interest. In the event the actual construction costs are less than that estimated by the City Engineer, a proportionate share of the surplus funds shall be returned to the developer or his successors in interest.
 - 3. In the event the governing body finds that the completion of the required public improvements would impose an unnecessary hardship upon a subdivider, the governing body may, upon written application from the subdivider, release the cash escrow deposit, in whole or in part, as the governing body may in its discretion determine.
- D. Performance Bond
 - 1. In the event a performance bond has been presented for ensuring the completion of public improvements in a subdivision, no occupancy permit shall be issued for any building in the subdivision prior to:
 - (a) The completion of required public improvements in accordance with applicable improvement standards, and
 - (b) A written certification from the city engineer to the governing body that all required public improvements have been completed, and that they are undamaged.
 - 2. Upon written certification from the city engineer that all required public improvements have been completed in accordance with applicable improvement standards, the

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governing body shall release both the principal and surety from the performance bond. Upon written certification from the city engineer that a portion of the required public improvements have been completed in accordance with applicable improvement standards, the governing body shall, if it finds the public improvements have been at least 50 percent completed, reduce the performance bond in the ratio that the public improvements completed bear to the total improvements required.

3. In the event the governing body finds that the completion of the required public improvements would impose an unnecessary hardship upon a subdivider, the governing body may, upon application from the subdivider, release the performance bond in whole or in part, as the governing body may in its discretion determine.

Section 7.02 17-410. SIDEWALKS AND PEDESTRIAN WAYS

A. The installation of sidewalks and pedestrian ways in the city shall be as follows:

1. Public sidewalks shall be installed on one side of local residential streets and on both sides of all other streets unless installation is waived by the governing body; except that, a sidewalk shall not be required on frontage roads.
2. Sidewalks shall be at least five feet in width and installed according to specifications adopted by the governing body. Such sidewalks shall extend from curb to curb of intersecting streets, constructed as near as possible to property lines.
3. Sidewalks shall be constructed concurrently with the paving of the adjacent streets and such sidewalks are those that would be required by virtue of subsection (a)(1) of this section to be constructed within the same right-of-way as the street being paved.
4. The Planning Commission may require the installation of an improved pedestrian-way not less than five feet wide in easement space dedicated for that purpose.
5. No petitions for street improvements shall be considered by the governing body unless such petitions are accompanied by valid petitions for the construction of sidewalks or pedestrian ways, except where the governing body has specifically waived the installation as provided in subsection (a)(1) of this section. The total cost of all sidewalks or pedestrian-way improvements shall be borne by the property benefited in the improvement district.

B. **Temporary Improvement.** The applicant shall build and pay for all costs of temporary improvements required by the City and shall maintain those temporary improvements for the period specified by these regulations. Prior to construction of any temporary facility or improvement, the developer shall file with the Governing Body a separate subdivision improvement agreement and cash escrow in an appropriate amount for temporary facilities, which agreement and escrow shall ensure that the temporary facilities will be properly constructed, maintained, and removed.

C. **Costs of Improvements.** All required improvements shall be made by the developer, at its expense, without reimbursement by the local government or any improvement district except that,

as is allowed under state law, the developer may form or cause to be formed a benefit district or districts to construct and finance the construction of required public improvements excluding lot improvements on individual lots. If the subdivider does form or cause to be formed a benefit district for the purposes identified in this section, the Governing Body shall not release the subdivider from its obligations under any improvement agreement nor shall the Governing Body release any security, in whole or in part, until the benefit district has sold bonds or otherwise certifies to the Governing Body that it has an absolute right to raise revenues sufficient to construct, maintain, and warrant the quality of the required public improvements.

- D. **Governmental Agencies.** Governmental agencies to which these contract and security provisions apply may file, in lieu of the contract and security, a certified resolution or ordinance from officers or agencies authorized to act in their behalf, agreeing to comply with the provisions of this Article.
- E. **Failure to Complete Improvement.** For subdivisions for which no subdivision improvement agreement has been executed and no security has been posted, if the improvements are not completed within one year of the date of approval of the Final Plat, the Final Plat approval shall be deemed to have expired. In those cases where a improvement agreement has been executed and security has been posted and required public improvements have not been installed within the terms of the agreement, the Governing Body may then: (1) declare the agreement to be in default and require that all the improvements be installed regardless of the extent of the building development at the time the agreement is declared to be in default; (2) suspend Final Plat approval until the improvements are completed and record a document to that effect for the purpose of public notice; (3) obtain funds under the security and complete improvements itself or through a third party; (4) assign its right to receive funds under the security to any third party , including a subsequent owner of the subdivision for which improvements were not constructed, in whole or in part, in exchange for that subsequent owner's promise to complete improvements in the subdivision; (5) exercise any other rights available under the law.
- F. **Acceptance of Dedication Offers.** Acceptance of formal offers of dedication of streets, public areas, easements, and parks shall be by ordinance of the Governing Body. The approval of a subdivision plat by the Planning Commission, whether Preliminary or Final, shall not be deemed to constitute or imply the acceptance by the municipality of any street, easement, or park shown on plat.

Section 7.03 Deferral of Required Improvements.

- A. The Governing Body may defer public improvements, subject to appropriate conditions, when in its judgment, such improvements are not requisite in the interests of the public health, safety, and general welfare, or that are inappropriate because of the inadequacy or in existence of connecting facilities. Any determination to defer the provision of any public improvement must be made on the record and the reasons for the deferral or waiver also shall be expressly made on the record.
- B. Whenever it is deemed necessary by the Governing Body to defer the construction of any improvement required under these regulations because of incompatible grades, future planning, inadequate or nonexistent connecting facilities, or for other reasons, the subdivider shall pay his share of the costs of the future improvements to the City prior to signing of the final subdivision plat by the Mayor. As an alternative the Governing Body may accept a separate improvement

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agreement secured by a letter of credit guaranteeing completion of the deferred improvements as specified by the Governing Body.

- C. In addition to the providing financial assurance for the future completion of deferred improvements, the subdivider shall submit a covenant of non-opposition to the future construction of the deferred improvements. Such covenant shall run with the land and bind all successors, heirs, and assignees of the subdivider.

Section 7.04 Inspection and Acceptance of Improvements.

- A. **General Procedure and Fees.** All improvements constructed or erected shall be subject to inspection by the City Engineer or the Codes Official. The cost attributable to all inspections shall be charged to and paid by the subdivider. Fees shall be due and payable upon demand of the City and no certificates of occupancy shall be issued until all fees are paid. The subdivider shall give at least forty-eight (48) hours written notification to the Official prior to the performance of any work.
- B. **Inspection Procedure.** After proper notice is received, the Codes Official shall conduct an on-site inspection to determine that the work complies with the approved construction drawings and specifications. If the said Official determines that such work does not comply with the approved construction drawings and specifications, said Official shall so notify the subdivider, and may require the subdivider to terminate all further work until necessary steps are taken to correct any defect, deficiency, or deviation to the satisfaction of said Official. Upon the correction of such defect, deficiency, or deviation, the subdivider shall notify the Official for a re-inspection.
- C. **Final Inspection.** Upon completion of all improvements within the area covered by the Final Plat, the subdivider shall notify the Codes Official who shall thereupon conduct a final inspection of all improvements installed.
- D. **Final and As-Built Drawings.** Before acceptance of any public improvement project, the applicant shall provide the Codes Official with one plotted copy and an electronic copy of the original set, and one of the as-built drawings. Electronic copies shall be in a format compatible with the City's designated software. The drawings must include results of a post-construction survey. The post-construction survey shall include, but shall not be limited to, the following:
1. Elevation of all structures, including sanitary sewer manholes, storm sewer inlets, pipe inverts, and structure top elevations;
 2. Final adjusted stationing of all structures, including but not limited to valves, hydrants, and blow-off assemblies; and
 3. Final adjusted contours as featured in the grading and drainage plans.

The as-built drawings must include a signed Engineer's Certification stating that the drawings are as-built and conform to construction records and post-construction survey information.

- E. Formal Acceptance and Release or Reduction of Security.
1. Certificate of Satisfactory Completion. The Governing Body will not accept dedication of required improvements, nor release nor reduce the amount of any security posted by the subdivider until the City Engineer has submitted a certificate stating that all required improvements have been satisfactorily completed and until (1) the applicant's engineer or surveyor has certified to the City Engineer, through submission of a detailed "as-built" drawing as required by Section 7.03.D, that the layout of the line and grade of all public improvements is in accordance with construction drawings for the subdivision, and (2) a title insurance policy has been furnished to and approved by the City Attorney indicating that the improvements have been completed, are ready for dedication to the local government, and are free and clear of any and all liens and encumbrances.
 2. Upon such approval and recommendation by the City Engineer and City Attorney, the Governing Body shall thereafter accept the improvements for dedication. The Governing Body shall so notify the subdivider in writing, the Final Plat shall be signed by the Mayor, and after payment of all fees required, the subdivider may file the subdivision with the Miami County Register of Deeds.
 3. Reduction of Escrowed Funds and Security. The amount of the escrow shall be reduced upon actual acceptance of the dedication of public improvements and then only to the ratio that the cost of the public improvement for which dedication was accepted bears to the total cost of public improvements for the subdivision. In no event shall a cash escrow be reduced below twenty-five per cent (25%) of the principal amount. Funds held in the escrow account shall not be released to the subdivider, in whole or in part, except upon express written instructions of the Governing Body. At the end of the maintenance and warranty periods, all escrowed funds, if any, shall be released to the subdivider with any interest that may have accrued to the account.

Section 7.05 Maintenance of Improvements.

The developer shall be required to maintain all required public improvements on the individual subdivided lots and provide for snow removal on streets and sidewalks until acceptance of the improvements by the Governing Body.

Section 7.06 Issuance of Certificates of Occupancy.

- A. Certificates of occupancy. Unless the required improvements have been installed and accepted by the Governing Body or guaranteed according to Section 6.01 for a lot or tract, no Certificates of Occupancy shall be issued for that lot or tract.
- B. Occupancy Permits. No occupancy permit shall be issued until all improvements have been installed and accepted by the Governing Body.

Section 7.07 Temporary Occupancy / Escrow Deposits for Improvements.

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- A. Acceptance of Escrow Funds. Whenever, by reason of a period of inclement weather or the season of the year, any improvements required by the subdivision regulations cannot be performed, the Codes Official may issue a certificate of occupancy, provided there is no danger to health, safety, or general welfare upon accepting a cash escrow deposit in an amount equal to one hundred percent (100%) of the estimated cost of completion of the lot improvements. The subdivision improvement agreement and security covering the lot improvements shall remain in full force and effect.
- B. Procedures on Escrow Fund. All required improvements for which escrow monies have been accepted by the Codes Official at the time of issuance of a certificate of occupancy shall be installed by the subdivider as soon as weather permits and in no case more than a period of nine (9) months from the date of deposit and issuance of the certificate of occupancy. If the improvements have not been properly installed at the end of the time period, the Codes Official shall give two (2) weeks written notice to the developer requiring it to install the improvements, and if they are not then installed properly, the Codes Official may request the Governing Body to proceed to contract out the work for the installation of the necessary improvements in a sum not to exceed the amount of the escrow deposit. At the time of the issuance of the certificate of occupancy for which escrow monies are being deposited with the Codes Official, the developer shall obtain and file with the Codes Official prior to obtaining the certificate of occupancy a notarized statement from the purchaser or purchasers of the premises authorizing the Codes Official to install the improvements at the end of the nine (9) month period if the improvements have not been duly installed by the subdivider.

Appendix A CERTIFICATES FOR FINAL PLAT CERTIFICATION

Section A.01 Certificate of Ownership, Consent and Dedication

I (we) hereby certify that I am (we are) the owner(s) of the property shown and described hereon and that I (we) hereby adopt this plan of subdivision with my (our) free consent, and in accordance with my (our) desire, establish the minimum building restriction lines, and irrevocably offer for dedication to the public all streets, alleys, walks, parks, other open spaces, easements, require public utilities, and the required public improvements as shown on the subdivision plat, construction plans and landscaping plans.

_____, 20_____
(Weekday, Month and Day) (Year)

(Owner)

(Owner)

Section A.02 Certificate of Accuracy

I hereby certify that the plan shown and described hereon is a true and correct survey to the accuracy required by the City of Osawatomie, Kansas and the monuments have been placed as shown hereon, to the specifications of the City Engineer Officer.

_____, 20_____
(Weekday, Month and Day) (Year)

(Registered Engineer or Land Surveyor)

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Section A.03 Certificate of Fire Protection Measures

I hereby certify that the plan shown and described hereon and the improvements shown and approved as part of the Drainage Study and Construction Documents meet the minimum applicable Federal, State, County and City Fire Codes and fire protection measures, including water pressure and flow for fire providing adequate fire protection.

_____, 20_____
(Weekday, Month and Day) (Year)

(Registered Engineer)

(City of Osawatomie Fire Chief)

Section A.04 Certificate of Approval of Public Improvements

I hereby certify:

- A. That streets, utilities and other improvements have been installed in acceptable manner and according to the City specifications in the subdivision entitled _____; or
- B. That a security bond in the amount of \$_____ has been posted with the Governing Body to assure completion on all required improvements in case of default; or
- C. That a development agreement between the subdivider and the City has been adopted by the Governing Body and recorded in the Office of Miami County Register of Deeds in Book No. _____, Page No. _____ providing security for and construction of required public improvements.

_____, 20_____
(Weekday, Month and Day) (Year)

(City of Osawatomie City Engineer)

Attest: _____
(City of Osawatomie City Clerk)

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Section A.05 Certificate of Approval of the Final Plat

I hereby certify that the subdivision plat shown hereon has been found to comply with the Subdivision Regulations for the City of Osawatomie, Kansas with the exception of such variances, if any as noted in the minutes of the City Council meeting. The City hereby accepts dedication of, and responsibility for maintenance of all streets, utilities and other public area as indicated on the final plat subject to any development agreements relating to improvement of the same referenced on the face of the Final Plat. The Final Plat for the subdivision entitled _____, is hereby approved for filing in the Office of the City Clerk and recording in the Office of the Miami County Register of Deeds.

_____, 20_____
(Weekday, Month and Day) (Year)

(City of Osawatomie City Engineer)

Attest: _____
(City of Osawatomie City Clerk)

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FLOODPLAIN MANAGEMENT REGULATIONS

for

CITY OF OSAWATOMIE, KANSAS

CITY OF OSAWATOMIE LAND DEVELOPMENT ORDINANCE

Official Copy as Incorporated by Reference by Ordinance No. _____

Public Hearing by the Osawatomie Planning Commission _____, 2013

Adopted by the Osawatomie City Council _____, 2013

**CITY OF OSAWATOMIE
FLOODPLAIN MANAGEMENT REGULATIONS**

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17-101. FINDINGS OF FACT AND PURPOSE.

(A) Findings of Fact.

- (1) Flood Losses Resulting from Periodic Inundation. The flood hazard areas of the City of Osawatomie are subject to inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base all of which adversely affect the public health, safety and general welfare.
- (2) General Causes of these Flood Losses. These flood losses are caused by:
 - (a) the cumulative effect of obstructions in floodways causing increases in flood heights and velocities;
 - (b) the occupancy of flood hazard areas by uses vulnerable to floods or hazardous to others, which are inadequately elevated or otherwise unprotected from flood damages.
- (3) Methods Used to Analyze Flood Hazards. This article uses a reasonable method of analyzing flood hazards through a series of interrelated steps.
 - (a) Selection of a regulatory flood which is based upon engineering calculations that permit a consideration of such flood factors as its expected frequency of occurrence, the area inundated, and the depth of inundation. The reasonably characteristic of what can be expected to occur on the particular streams subject to this article. It is in the general order of a flood which could be expected to have a one percent chance of occurrence in any one year, as delineated on the Federal Insurance Administration's Flood Insurance Study, and illustrative materials dated January 16, 2014 with accompanying Flood Insurance Rate Maps and flood boundary and floodway maps as amended, and any future revisions thereto.
 - (b) Calculation of water surface profiles based on a hydraulic engineering analysis of the capacity of the stream channel and overbank areas to convey the regulatory flood.
 - (c) Computation of the floodway required to convey this flood without increasing flood heights more than one foot at any point.
 - (d) Delineation of the floodway encroachment lines within which no obstruction is permitted which would cause any increase in flood height.
 - (e) Delineation of the floodway fringe, e.g., that area outside the floodway encroachment lines but which still is subject to inundation by the regulatory flood.

(B) Statement of Purpose. It is the purpose of this article to promote the public health, safety, and general welfare and to minimize those losses previously described by applying the provisions of this article to:

- (1) Restrict or prohibit uses which are dangerous to health, safety, or property in times of flooding or cause undue increases in flood heights or velocities.
- (2) Require that uses vulnerable to floods, including public facilities that serve such uses, be provided with flood protection at the time of initial construction.
- (3) Protect individuals from buying lands which are unsuited for intended purposes because of flood hazard.
- (4) Assure that eligibility is maintained for property owners in the community to purchase flood insurance in the National Flood Insurance Program

17-102. LANDS TO WHICH ARTICLE APPLIES

This article shall apply to all lands within the jurisdiction of Osawatomie, Kansas identified on the Flood Insurance Rate Map (FIRM) as numbered and unnumbered A Zones (including AE, AO and AH Zones) and within the Floodway (FW) Overlay District and a Floodway Fringe (FF) District established by this article. In all areas covered by this article no development shall be permitted except upon a permit to develop under such safeguards and restrictions as may reasonably be imposed for the promotion and maintenance of the general welfare, health of the inhabitants of the community and where specifically noted in this article.

17-103. ESTABLISHMENT OF ZONING DISTRICTS

The mapped flood plan areas within the jurisdiction of this article are hereby divided into the two following districts: a floodway overlay district (FW) and a floodway fringe overlay district (FF) identified in the Flood Insurance Study and accompanying map. Within these districts all uses not meeting the standards of this article and those standards of the underlying zoning district shall be prohibited. These zones shall be consistent with the numbered and unnumbered A Zones (including AE, AO and AH Zones) as identified on the official FIRM and identified in the Flood Insurance Study provided by the Federal Emergency Management Agency.

17-104. STANDARDS FOR THE FLOODWAY OVERLAY DISTRICT AND THE FLOODWAY FRINGE OVERLAY DISTRICT.

- (A) No permit for development shall be granted for new construction, substantial improvements and other improvements including the placement and manufactured homes within all numbered and unnumbered A Zones (include AE, AO and AH Zones) unless the conditions of this sections are satisfied.
- (B) All areas identified as unnumbered A Zones on the FIRM are subject to inundation of the 100-year flood; however, the water surface elevation was not provided. The unnumbered A Zones shall be subject to all development provisions of this article. If Flood Insurance Study data is not available the city codes official shall obtain, review and reasonably utilize any base flood elevation or floodway data currently available from federal, state or other sources.
- (C) New construction, subdivision proposals, substantial improvements, prefabricated buildings, placement of manufactured homes and other developments shall require:

- (1) Design or anchorage to prevent floatation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
- (2) New or replacement water supply systems and/or sanitary sewage systems be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and on-site waste disposal systems be located so as to avoid impairment or contamination.
- (3) Construction with materials resistant to flood damage, 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.
- (4) All utility and sanitary facilities be elevated or flood-proofed up to the regulatory flood protection elevation.
- (5) Storage and Material and Equipment:
 - (a) The storage or processing of materials that are in time of flooding buoyant, flammable, explosive, or could be injurious to human, animal or plant life is prohibited.
 - (b) Storage of other material 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 flood warning.
- (6) Subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, be required to assure that
 - (a) all such proposals are consistent with the need to minimize flood damage,
 - (b) all public utilities and facilities, such as sewer, gas, electrical, and water systems are located, elevated and constructed to minimize or eliminate flood damage,
 - (c) adequate drainage is provided so as to reduce exposure to flood hazards, and
 - (d) proposals for development (including proposals for manufactured home parks and subdivisions) of five acres or 50 lots, whichever is lesser, include within such proposals the regulatory flood elevation.

17-105. FLOODWAY FRINGE OVERLAY DISTRICT (Including AO and AH Zones).

- (A) Permitted Uses.

- (1) Any use permitted in the Floodway Overlay District shall be permitted in the Floodway Fringe Overlay District. No use shall be permitted in the district unless the standards of the prior section are met.

(B) Standards for the Floodway Fringe Overlay District

- (1) Require new construction or substantial improvements of residential structures to have the lowest floor, including basement, elevated a minimum of two (2) feet above the base flood elevation.
- (2) Require new construction or substantial improvements of nonresidential structures to have the lowest floor, including basement, elevated a minimum of one (1) foot above the base flood elevation or, together with attendant utility and sanitary facilities, to be flood-proofed one (1) foot above the base flood elevation so that above that level (of one foot above the base flood elevation) the structure is water tight with walls substantially impermeable to the passage of water, with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied.
- (3) Require for all new construction and substantial improvements that fully enclosed 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.
- (4) Within AH Zones adequate drainage paths around structures on slopes shall be required in order to guide floodwaters around and away from proposed structures.
- (5) Manufactured Homes:
 - (a) All manufactured homes shall be anchored to resist flotation, collapse, or lateral movement. Manufactured homes must be anchored in accordance with local building codes or FEMA guidelines. In the event that over-the-top frame ties to ground anchors are used, the following specific requirements (or their equivalent) shall be met:
 - (i) Over-the-top ties be provided at each of the four corners of the manufactured home, with two additional ties per side at intermediate locations and manufactured homes less than 50 feet long requiring one additional tie per side;
 - (ii) Frame ties be provided at each corner of the home with five additional ties per side at intermediate points and manufactured

homes less than 50 feet long requiring four additional ties per side;

- (iii) All components of the anchoring system be capable of carrying a force of 4,800 pounds; and
- (iv) Any additions to the manufactured home be similarly anchored.

- (b) Require that all manufactured homes to be placed within Zones A 1-30, AH, and AE on the community's FIRM, be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the base flood elevation, and be securely anchored to an adequately anchored foundation system in accordance with the provisions of this section.

17-106. FLOODWAY OVERLAY DISTRICT.

- (A) Permitted Uses. Only uses having a low flood-damage potential and not obstructing flood flows shall be permitted within the floodway district to the extent that they are not prohibited by any other article. All encroachments, including fill, new construction, substantial improvements and other developments must be prohibited unless certification by a professional registered engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during occurrence of the base flood discharge. No use shall increase the flood levels of the regulatory flood elevation. These uses are subject to the standards contained in Section 17-104 and Section 17-105 of this article. The following are recommended uses for the floodway overlay district.

- (1) Agricultural uses such as general farming, pasture, nurseries, forestry.
- (2) Residential uses such as lawns, gardens, parking and play areas.
- (3) Non-residential areas such as loading areas, parking, airport landing strips.
- (4) Public and private recreational uses such as golf course, archery ranges, picnic grounds, parks, wildlife and nature preserves.
- (5) In Zone A unnumbered, obtain, review and reasonably utilize any floodway data available through federal, state or other sources or Section 17-105 of this article, in meeting the standards of this section.

17-107. ADMINISTRATION.

The administration of these regulations is vested in the city codes official. It is the responsibility of the city codes official to review all requests for floodplain development permits and to enforce the regulations in this section. Each permit request shall be reviewed in consideration of the following:

- (A) Review all development permits to assure that sites are reasonably safe from flooding and that the permit requirements of this article have been satisfied.

- (B) Review permits for proposed development to assure that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required.
- (C) Notify adjacent communities and appropriate state agencies prior to any alteration or relocation of a watercourse, and shall submit evidence of such notification to the Federal Emergency Management Agency.
- (D) Assure that maintenance is provided within the altered or relocated portion of the watercourse so that the flood carrying capacity is not diminished.
- (E) Verify, record and maintain record of the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures.
- (F) Verify, record and maintain record of the actual elevation (in relation to mean sea level) to which the new or substantially improved structures have been flood-proofed.
- (G) When flood-proofing is utilized for a particular structure the city codes official shall be presented certification from a registered professional engineer or architect.

17-108. FLOODPLAIN DEVELOPMENT PERMIT. No alteration, encroachment or substantial improvement may be made in, on, or over any land within areas designated as floodway or floodway fringe by this article and shown on the official floodplain district map without obtaining a floodplain development permit from the city codes official.

- (A) Procedure. Application for a floodplain development permit shall be submitted by the property owner or his or her certified agent to the city codes official for review.
- (B) Information Required. An application for a floodplain development permit shall be accompanied by the following:
 - (1) Identification and description of proposed use or development;
 - (2) Legal description of the property;
 - (3) Plan of the proposed development or use at a scale of one inch equals 50 feet or larger showing the floodway and floodway fringe;
 - (4) Use and type of structures proposed;
 - (5) The elevation (in relation to mean sea level) of the lowest floor, including basements, of all structures or proposed fill;
 - (6) When flood-proofing is proposed, the elevation (in relation to mean sea level) to which the non-residential structure will be flood-proofed;
 - (7) Proposed developments that include alteration of watercourses must have evidence submitted by the applicant showing that no adverse impacts will result from the alteration and that the flood carrying capacity within the altered or relocated portion of the watercourse is not diminished.

- (8) Development proposals wholly or partially within the floodplain shall be accompanied by:
 - (a) A typical valley cross-section showing the channel of the stream, elevation of land areas adjoining each side of the channel, cross-sectional areas to be altered by the proposed development and information on increases in water elevation.
 - (b) Plan (surface view) showing elevations or contours at an interval not greater than two feet; pertinent structure, fill or storage elevations; size, location, and spatial arrangement of all proposed and existing structures on the site; location and elevation of streets, water supply, sanitary facilities, existing land uses and vegetation upstream and downstream (shown by photographs), soil types and permeability, and other pertinent data.
 - (c) Profile showing the slope of the bottom of the channel or flow line of the stream.
- (9) Any additional data that the city codes official requests that is pertinent to the issuance of a floodplain development permit.

17-109. NON-CONFORMING USES AND STRUCTURES IN THE FLOODPLAIN. All non-conforming uses and structures within the floodway or floodway fringe shall be subject to the following requirements in addition to the provisions of the city zoning regulations.

- (A) No non-conforming use or structure shall be altered, repaired or modified unless a permit is issued under this section.
- (B) No permit for the alteration, repair or modification of a non-conforming use in the floodway fringe overlay district shall be issued unless such alteration, repair or modification includes flood-proofing measures to the base flood elevation. No permits shall be issued for alteration, repair or modification in the floodway.
- (C) Uses or adjuncts thereof which are or become nuisances shall not be entitled to continue as non-conforming uses.
- (D) In passing on permit application for alteration, repair or modification, the city commission shall consider the following in determining the adequacy of the flood proofing measures:
 - (1) The susceptibility of the structure or use to flood damage.
 - (2) The availability and expense of alternate flood-proofing techniques.
 - (3) The safety of the flood-proofing measures.
- (E) If a nonconforming use and/or structure in the floodplain is discontinued for six consecutive months, any future use of the building premises shall conform to this article.

- 17-110. AMENDMENTS. The regulations, restrictions, and boundaries set forth in this section may from time to time be amended, supplemented, changed, or appealed to reflect any and all changes in the National Flood Disaster Protection Act of 1973, provided that no such action may be taken until after appropriate notice and hearing in accordance with the zoning ordinance of the city and meeting the terms of K.S.A. 12-734. A copy of such amendments will be provided to the Federal Emergency Management Agency. The provisions of this article are in compliance with the national flood insurance program regulations.
- 17-111. DEFINITIONS. Unless specifically defined below, or in the city zoning regulations, words or phrases used in this section shall be interpreted so as to give them the meaning they have in common usage and to give this article its most reasonable application:
- (A) Actuarial or Risk Premium Rates means those rates established by the administrator pursuant to individual community studies and investigations which are undertaken to provide flood insurance in accordance with Section 1307 of the Act and the accepted actuarial principles. Risk premium rates include provisions for operating costs and allowances.
 - (B) Area of Shallow Flooding means a designated AO or AH zone on the City's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.
 - (C) Area of Special Flood Hazard. The land in the floodplain within the City subject to a one percent or greater chance of flooding in any given year.
 - (D) Base Flood. The flood having a one percent chance of being equaled or exceeded in any given year.
 - (E) Development. Any man-made change to improved or unimproved real estate, including but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.
 - (F) Existing Construction means (for the purposes of determining rates) structures for which the start of construction commenced before the effective date of the FIRM. Existing construction may also be referred to as existing structures.
 - (G) Flood or Flooding. A general and temporary condition of partial or complete inundation of normally dry land areas from:
 - (1) The overflow of inland or tidal waters.
 - (2) The unusual and rapid accumulation of runoff of surface waters from any source.
 - (H) Flood Insurance Rate Map (FIRM) means an official map of the City on which the Flood Insurance Study has delineated the Flood Hazard Boundaries and the zones establishing insurance rates applicable to the community.

- (I) Flood Insurance Study is the official report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the Flood Boundary Floodway Map and the water surface elevation of the base flood.
- (J) Floodplain or Flood Prone Area. Land included within the floodway or floodway fringe as determined by the Federal Emergency Management Agency (F.E.M.A.).
- (K) Flood-proof or Flood-proofing. Any combination of structural and non-structural additions, changes or adjustments to structure which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents. For the purposes of this section, flood proofing shall be in accordance with the Flood-proofing Regulations established by the Corps of Engineers.
- (L) 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 of more on the adjacent land than one foot.
- (M) Floodway Fringe. An area of the floodplain, outside of the floodway that on the average is likely to be flooded once every 100 years (e.g., that has a one percent chance of flood occurrence in any one year).
- (N) Freeboard means 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 wave action, clogged bridge openings, and the hydrological effect of urbanization of the watershed.
- (O) Highest Adjacent Grade means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
- (P) Lowest Floor means 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 the structure in violation of the applicable non-elevation design requirements of this article.
- (Q) Manufactured Home. For the purposes of this article, the term "manufactured home" shall have the meaning ascribed to it by the City of Osawatomie zoning regulations and any amendments thereto. However, in no instance, for the purposes of this article, shall the term "manufactured home" include a "recreational vehicle."
- (R) Manufactured Home Park. For the purposes of this article, the term "manufactured home park" shall have the meaning ascribed to it by the City of Osawatomie zoning regulations and any amendments thereto.
- (S) Mean Sea Level. The average height of the sea for all stages of the tide.
- (T) New Construction means, for the purposes of determining insurance rates, structures for which the start of construction commenced on or after the effective date of the city's

initial FIRM, 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 regulation adopted by the city and includes any subsequent improvements to such structures.

- (U) New Manufactured Home Park means a manufactured home park for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by the city.
- (V) Overlay District is a district in which additional requirements act in designation does not change.
- (W) Recreational Vehicle means a vehicle which is:
 - (1) Built on a single chassis;
 - (2) 400 square feet or less when measured at the largest horizontal projection;
 - (3) Designed to be self-propelled or permanently towable by a light duty truck; and
 - (4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.
- (X) Start of Construction includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition 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 stage of excavation or the 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, footings, 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. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.
- (Y) Structure means a walled and roofed building that is principally above ground, as well as a manufactured home, and a gas or liquid storage tank that is principally above ground.
- (Z) Substantial Damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damaged occurred.
- (AA) Substantial Improvement means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market

value of the structure before the construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

- (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or,
- (2) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

17-112. VARIANCES. The board of zoning appeals shall hear and decide all variances from the requirements of this section and shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the city codes official in the enforcement or administration of this article, the zoning regulations contain the procedure for filing an application for a variance.

- (A) Standards. In addition to all other standards contained in this article or the zoning regulations, the board of zoning appeals shall consider the following factors in the granting of such standards.
- (1) The danger that materials may be swept onto other lands to the injury of others.
 - (2) The danger to life and property due to flooding or erosion damage.
 - (3) The susceptibility of proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
 - (4) The importance of the services provided by the proposed facility to the community.
 - (5) The necessity to the facility of a waterfront location, where applicable.
 - (6) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use.
 - (7) The compatibility of the proposed use with existing and anticipated development.
 - (8) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area.
 - (9) The safety of access to the property in times of flood for ordinance and emergency vehicles.
 - (10) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and

- (11) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
- (B) Conditions. Generally, variances may be issued by the board of zoning appeals for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the following items have been fully considered. As the lot size increases beyond the one-half acre, the technical jurisdiction required for issuing the variance increases.
- (1) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this section.
 - (2) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
 - (3) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - (4) Variances shall only be issued upon
 - (i) a showing of good and sufficient cause,
 - (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and
 - (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
 - (5) Any applicant to whom a variance is granted shall be given a written notice that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

17-113. FLOODPLAIN WARRANTY, ENACTMENT.

- (A) Floodplain District Warranty: Designation of. The degree of flood protection required by this article is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur on rare occasions or the flood heights may be increased by manmade or natural causes, such as ice jams and bridge openings restricted by debris. This article does not imply that areas outside floodway or floodway fringe district boundaries or land uses permitted within such districts will be free from flooding or flood damage. This article shall not create liability on the part of the city or any officer or employee thereof, for any flood damages that may result from reliance on this article or any administrative decision lawfully made thereunder.
- (B) Rules for Interpretation of District Boundaries. The boundaries of the floodway and floodway fringe overlay districts shall be determined by scaling distances in the official

zoning map or on the Flood Insurance Rate Map or Floodway Map. The regulatory flood elevation for the point in question shall be the governing factor in locating the district boundary on the land.

- (C) Compliance. No development located within known flood hazard areas of this community shall be located, extended, converted or structurally altered without full compliance with the terms of this article and other applicable regulations. The granting of a building permit for the erection, moving, altering or enlargement of any building or structure in the floodway overlay district and the floodway fringe overlay district shall not be permitted until a Floodplain Development Permit has been granted and the conditions of this article have been met.
- (D) Interpretation. In their interpretation and application, the provisions of this article shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by state statutes.
- (E) Enactment. It is not intended by this article to repeal, abrogate or impair any existent easements, covenants, or deed restrictions. However, where this article imposes greater restrictions, the provision of this article shall prevail.