



Unified Development Regulations

Common Links



**Building
Permits**



Subdivisions



**Agriculture
Districts**



**Residential
Districts**



**Commercial
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**Conditional
Uses**



Signs



Definitions

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Unified Development Regulations

1. Title Authority, Adoptions, and Fees

1.1. Title and Citation

- 1.1.1. This resolution shall be known and cited or pleaded as the Pottawatomie County Unified Development Resolutions, adopted as Resolution Number 2009-1 and Resolution Number 2021-96
- 1.1.2. The Pottawatomie County Unified Development Resolutions, Resolutions Number 2009-1 and 2021-96, enacted on the 5th day of January, 2009 and the 4th day of October, 2021 respectively, repeals all former Unified Development Resolutions and amendments. All resolutions hereby repealed shall allow application of remedies or punishment of a person for the act done or committed prior to the date of these Resolutions and in violation of a resolution hereby repealed.

1.2. Purpose

- 1.2.1. These zoning regulations are adopted, designated and designed to control the density of buildings, undue concentration of population and to ensure adequate provisions for:
 - a. Transportation safety on the county's roads and highways
 - b. Adequate provisions for sanitation and potable waters
 - c. The promotion of open space, public recreation, and rural amenities
 - d. The preservation of valuable agricultural farmland
 - e. The promotion of orderly growth and economic development
 - f. The minimization of conflict between non-farm and farm uses and lands
- 1.2.2. The land subdivision and development regulations are designed to encourage the sound and orderly development of living, workplace and business environments and provide suitable infrastructure and facilities. These regulations are constructed with reasonable care for building lots of adequate size, configuration and utility. The land development portion of these resolutions is intended to preserve significant environmental features of lands, promote harmonious building design with adequate parking and pedestrian connectivity.

1.3. Adoption and Authority

- 1.3.1. These resolutions are adopted under the provisions of Kansas Statutes Annotated (KSA) 12-741 and following; 12-756 and following; 12-757 and associated statutes. The jurisdiction of these resolutions is all unincorporated lands within Pottawatomie County, except those zones (including floodplain) designated as "extraterritorial jurisdiction" for the cities of Wamego and St. Marys and subsequent adoptions and designations.

1.4. Conformance Required

- 1.4.1. No land shall be used, and no buildings or structures, or part thereof, shall be erected, constructed, reconstructed, located, moved, extended, enlarged, structurally altered, or used or occupied except in conformity with these resolutions.

1.5. Violations

- 1.5.1. It shall be unlawful for any person to violate any provision of these



resolutions, to permit or maintain any such violation, to refuse to obey any provision hereof, or to fail or refuse to comply with any such provision except as variation may be allowed under these resolutions or by order of the Zoning Administrator and/or Code Compliance/Enforcement Officer.

- 1.5.2. The Pottawatomie Board of County Commissioners may institute appropriate action, including injunction and mandamus, to prevent unlawful erection, construction or alteration of structures, use of the land, occupation of buildings, abatement of nuisances, failure to obtain permits, sale of land for development purposes without reference to a valid plat, or refusal to obey and adhere to a lawful order of the Zoning Administrator.
- 1.5.3. Any person, the value or use of whose land is or may be affected by such violation, shall have the authority to maintain suits or actions in a court of competent jurisdiction to enforce these adopted regulations and to abate nuisances maintained in violation thereof.
- 1.5.4. Whenever any building or structure is erected, constructed, moved, altered or converted or maintained, or any building, structure or land is purposed to be used in violation of any floodplain regulation contained herein, the county/and or the attorney general and the Chief Engineer of the Kansas Division of Water Resources of the State Board of Agriculture, in addition to other remedies, may institute injunction, or other appropriate action to prevent such violations.
- 1.5.5. Any person or agent who applies for a building permit and/or zoning compliance permit after construction starts* (see note 1 below) shall be required to pay a late charge** (see note 2) in accord with the following schedule:
 - a. The first offense shall result in a \$100 late fee for principal structures or \$50 for accessory structures
 - b. The second offense shall result in a \$200 late fee for principal structures or a \$100 late fee for accessory structures
 - c. The third offense shall result in a \$300 late fee for principal structures or a \$200 late fee for accessory structures
 - d. Subsequent offenses shall result in a \$400 late fee for both principal and accessory structures
- 1.5.6. An additional \$100 late charge will be added to the initial late fee if a building permit is not obtained within 7 working days after construction begins.
- 1.5.7. An additional \$200 late charge will be added to the accumulated late fee if a building permit is not obtained within 14 days when the slab or foundation is poured.

1.6. Severability and Interpretation

- 1.6.1. The intent of these resolutions, regulations and provisions is that they are severable if:
 - a. If any court of competent jurisdiction adjudges any provision of this ordinance to be invalid, such judgment shall not affect any other provisions of these resolutions.
 - b. If any court of competent jurisdiction shall find invalid any provision of these resolutions to a particular lot or tract of land, building or other structure, this judgment shall not affected the application of said provisions to another other lot or tract of land, building or structure.



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- 1.6.2. For the purposes of these resolutions, all words, terms and expressions contained herein shall be interpreted in accordance with the following rules of construction, unless the context requires otherwise:
- The particular controls the general
 - The "shall" is mandatory, the word "may" is permissive
 - The present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular
 - The words "used for" or "occupied for" include the words "intended for", "designed for", "arranged to be used for", "erected for", "constructed for", "reconstructed for", "repaired for", "moved for", "structurally altered for", or "extended for the purpose of"
 - The word "person" includes a "firm", "association", "organization", "partnership", "trust", "company", or "corporation" as well as an "individual"
 - Any word or term not defined herein shall be used with meaning of common standard use. Any words, terms or phrases not defined herein, shall be construed according to their common, ordinary accepted meaning.

1.7. Fees and Charges

- 1.7.1. All fees are established by separate resolutions
- 1.7.2. All charges (other than late fees) are established by separate resolutions

1.8. Waivers

- 1.8.1. The Pottawatomie County Board of County Commissioners may, by separate resolution, waive the fee for building or compliance permits




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2. Districts, General Provisions, and Applications

2.1. Districts

- 2.1.1. To carry out and fulfill the purposes and intent of these regulations, the following zoning and special districts are hereby created:
- 2.1.2. Agricultural Districts
 - a. A-1 - General Agriculture
 - b. A-2 - Rural Center
 - c. AB - Agri-Business
 - d. PURD - Planned Unit Rural District
 - e. AR - Ag-Residential
- 2.1.3. Residential Districts
 - a. R-1 - *Low-density Residential*
 - b. R-2 - *Intermediate-density Residential* 
 - c. R-3 - *High-density Residential*
 - d. PUD - Planned Unit Development
 - e. MHP - Mobile Home Park
- 2.1.4. Commercial Districts
 - a. CN - Commercial Neighborhood
 - b. CH - Commercial Highway
 - c. CS - General and Service Commercial
 - d. PCD - Planned Commercial District
- 2.1.5. Manufacturing Districts
 - a. MEP - Employment Park District
 - b. M-2 - General Manufacturing
 - c. M-3 - Heavy Manufacturing
- 2.1.6. Special Purpose Overlay Districts
 - a. I - Institutional Overlay
 - b. P - Planned Overlay
 - c. Special Development Zone Overlay
- 2.1.7. General Floodplain Development Regulations

2.2. Zoning Map Adopted

- 2.2.1. Pottawatomie County is hereby dividing into districts as shown on the Official Zoning Map, which together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this ordinance.



- 2.2.2. The Official Zoning Map shall be maintained in a digital and archival format and located in the Office of the Zoning Staff of Pottawatomie County.
- 2.2.3. Amendments to the Official Zoning Map shall be made in accordance with the provisions of these regulations and Kansas Planning and Zoning Statutes. Changes, modifications, and/or amendments to the Official Zoning Map may be initiated by the Board of County Commissioners, the County Planning Commission, staff members of the Office of Planning and Development, or by application of the affected property owner.

2.3. Application of these Regulations

- 2.3.1. The following are exempt from restrictions and regulations (except for floodplain regulations) imposed by these regulations:
 - a. All buildings, land, structures, and accessory uses having an agricultural purpose
 - b. All buildings, land, structures, and uses of any railroad in conjunction with their corporate purpose.
 - c. Official signs of the local, county, state, and federal governments, and certain signs internal to a site as specified in Article 12.

2.4. Duties of the Staff

- 2.4.1. The Zoning Administrator and County Planner shall be appointed by the Board of County Commissioners.
- 2.4.2. Duties of Staff
 - a. Issue all certificates and permits
 - b. Supervise all floodplain development permits and certificates
 - c. Administer and interpret the zoning resolutions
 - d. Administer and process all zoning amendments
 - e. Administer and process all variances, conditional or special uses
 - f. Administer all official road names and addresses
 - g. Collect all fees and assess all late charges
 - h. Accept and process all plats, surveys, and site plans
 - i. Conduct all inspections
 - j. Investigate and process all complaints and violations
 - k. Issue "stop work" orders
 - l. Prepare all staff reports
 - m. Prepare all amendments to County plans and policies
 - n. Duties and assignments as delegated by the Board of County Commissioners from time to time or as further specified by the official job description of the Zoning Staff as amended from time to time.

2.5. Application and Interpretation of these Regulations

- 2.5.1. Hereafter, no building, use, structure, or lot shall be used or



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occupied, erected, constructed, or moved to another location except in conformance with all regulations and rules contained in these regulations unless a variance, waiver, modification, or exception is granted for a departure to these regulations.

- 2.5.2. Permits may be issued to an applicant/owner with the approval of the sanitarian as a legally created "lot of record" established prior to the date of adoption or amendment of these resolutions that once conformed in all manner to previously established resolutions, or before the date that zoning regulations were first established in Pottawatomie County. All lots must be evaluated and approved by the County Sanitarian and meet all requirements mandated in the Federal Emergency Management Administration's FIRM and Floodplain requirements that are part of these regulations. To establish bulk, use, yards and setbacks, the Zoning Staff may use an equitable method of average requirements or devising equivalent regulations that were in use at the time when the lot was conforming.
- 2.5.3. A setback on any yard bordering a street shall be measured to determine the required depth of a yard from the lot line to the nearest wall at the finished grade of the building and does not include any part of the structure that projects outward above this line such as eaves or bay windows. Interior yards shall be determined by measuring from a lot line to the nearest part along the base of the structure at the finished grades and does not include any part of the structure that projects outward above this line such as eaves or bay windows.
- 2.5.4. Building height shall measure the vertical distance from the finished grade line to the highest point of the roof, excluding chimneys, ventilation devices, and other projections.
- 2.5.5. To assure accurate measurement of yards, setbacks, and height, the Zoning Staff may require an owner/applicant to secure the services of a licensed Kansas surveyor to prepare a certificate of survey or other form of measurement as specified by Staff.

2.6. Building, Zoning, and Sign Permits

- 2.6.1. A building permit is required to construct, erect, modify, or re-adapt any structure specified in these regulations. Permits shall be valid for a period of 180 days and are not transferable from one property to another, or for a use other than specified on the permit. Late charges shall apply to any person who commences construction or land preparation without first obtaining a valid building permit (see Article 1.5 "Violations"). Except that, any landowner may cut, clear, and remove any or all vegetation from a site.
 - a. A building permit may be issued to any structure listed as a "permitted" use in any zoning district or permitted conditional use.
 - b. An application form must be completed and submitted to the zoning staff and signed by the property owner or designated agent.
 - c. "Permit Issued" placards shall be prominently posted on the building site along with a placard or sign giving the street address. Staff may issue alternative requirements
 - d. Unless the Zoning Staff issues different instructions, all building permit applicants shall place a three (3) foot identified stake at the dig line in front of all faces of a proposed building and notify the Zoning Staff that the lot is ready for inspection, or submit a plot plan indicating the placement of all structures relative to lot lines



Permitting and Licensing Guide
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- e. Lots less than one-half acre in size shall retain a registered professional Kansas surveyor to stake lot lines, building corners, required yard boundaries, and existing easements.
- f. All buildings not having an agricultural purpose must follow the instructions specified by the zoning staff to determine yards, building corners, and easement dimensions. Applicants for permits on lots less than five (5) acres must obtain verification of the availability of Public Water Service District.
- g. Building permits may be revoked for cause, including, but not limited to error, fraud, changed use or zoning district regulations. The zoning staff may revoke or refuse to issue building permits to any and all sites if the builder(s), contractor, developer, and/or owner violates or breaks agreements, conditions, or requirements imposed by the Planning Commission, Board of County Commissioners, or Pottawatomie County Engineer.

2.6.2. A sign permit may be issued for any structure, array, portable arrangement, or advertising device listed in these regulations as "permitted signs" within any zoning district.

- a. An application form must be completed and submitted to the zoning staff and signed by the property owner and sign owner.

2.6.3. Any permit may be revoked by order of the Zoning Staff for cause including, but not limited to:

- a. Insufficient funds checks
- b. Fraud or other misrepresentation
- c. Improper or erroneous ownership information
- d. Violations of the rules, regulations, and procedures or requirements of any any part of these uniform development regulations.
- e. A violation of any condition, requirement, rule or site-plan notation or developer agreement.

2.6.4. If more than one building permit is issued to an applicant within the same development or subdivision, and the zoning staff issues a notice of violation or stop-work order to one or more sites, then the zoning staff is empowered to suspend all on-going permits with the same subdivision or development until such time compliance is assured.

2.6.5. Any property owner aggrieved by the revocation or suspension of a building permit may file an appeal, within 30 days, to the Pottawatomie County Board of Zoning Appeals.

2.7. Exempt from Building, Sign, or other Permits

2.7.1. The following structures are exempt from building, sign, or other permits County-wide:

- a. See generally 2.3.1 above
- b. Fences, drives, playhouses, play equipment
- c. Landscaping devices, gazebos, pergola, and trellises, patios, retaining walls
- d. Poles, wires, propane tanks, CATV devices, satellite receiving dish antennae (when permitted by right), devices for oil or natural gas distribution or transmission or equipment for the



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distribution of electricity, storage tanks for fertilizers, fuel or other chemical substances.

- e. Water towers and water storage tanks, wind mills
- f. An accessory storage building pre-assembled or assembled on-site, not larger than 120 square feet, but this does not include a container or trailer, shipping carton, or any other similar structure.
- g. Remodeling or rehabilitation of an existing structure that does not add a new area, addition, or additional enclosed square footage, but this does not include a change in use or a deck or similar structure
- h. Residential solar collectors
- i. Above ground, prefabricated swimming pools, but this does not include in-ground types.

2.7.2. The following structures are exempt from building permits in the area known as the Blue Township Sewer District

- a. One-story detached accessory structures provided the floor area does not exceed 120 square feet
- b. Fences not over seven (7) feet high
- c. Oil derricks
- d. Retaining walls that are not over seven (7) feet in height measured from grade on the low side to the top of the wall, unless supporting a surcharge or impounding class I, II, or IIIA liquids
- e. Water tanks supported directly on grade if the capacity does not exceed 5,000 gallons and the ratio of height to diameter or width does not exceed 2:1
- f. Sidewalks, driveways, and non-enclosed or covered decks not more than 30 inches above adjacent grade at any point, and not over any story or basement below and are not part of an accessory route.
- g. Painting, papering, tiling, carpeting, cabinets, counter-tops, and similar finish work
- h. Temporary motion picture, television, and other theater stage sets and scenery
- i. Prefabricated swimming pools accessory to a structure designated in the building code as a group R-3 occupancy that are less than 24 inches deep, do not exceed 5,000 gallons, and are installed entirely above ground.
- j. Shade cloth structures constructed for nursery or agricultural purposes, not including service systems.
- k. Swings and other playground equipment
- l. Window awnings supported by an exterior wall that do not project more than 54 inches from the exterior wall and do not require additional support of structures designated in the building code as group R-3 and U occupancies
- m. Non-fixed and movable fixtures, cases, racks, counters, and partitions not over five feet, nine inches in height



- n. Egress windows that gain height but not width to accommodate openable area
- o. Changes of occupancy to an equal or lesser hazard category where no other work is being done

2.7.3. A building permit shall be required in the Blue Township Sewer District unless it is exempt under both 2.7.1 and 2.7.2 above.

2.8. Move or Relocating Structures

- 2.8.1. All buildings to be moved or relocated shall be required to obtain the following permits:
 - a. Building permit
 - b. Moving permit

2.9. Accessory Buildings, Structures, and Uses - Generally

- 2.9.1. An accessory use, accessory building or structure is one customarily used in conjunction with the principal use of the lot, tract, or operation. Customary means a building or use that is normally associated with and supports the principal use.
- 2.9.2. Residential accessory uses do not include storage containers, shipping containers, truck beds or trailers, or any other use or structure not originally intended for storage or customarily associated with a residence.
- 2.9.3. Accessory uses include solar panel collectors, mini wind generation machines, satellite receiving dishes, personal two-way radio antennae, car or RV ports, accessory dwelling units, and permitted structures used as home occupations

2.10. Temporary Buildings, Uses, and Structures

- 2.10.1. Temporary buildings and structures, their accessory uses, and machinery customarily used with a temporary operation are permitted in all zoning districts under the following guidelines
 - a. A building, structure, or vehicle shall not be used as a temporary residence unless the use is listed as a permitted use in the underlying zoning district or as part of a designated RV or manufactured home park
 - b. The zoning staff is hereby empowered to place reasonable conditions and restrictions on a temporary building or use to ensure the protection of the public health, safety, welfare, and convenience
 - c. The zoning staff may permit temporary housing or shelter to victims of a natural disaster, fire, or other emergencies

2.11. Previously Legal (Non-Conforming) Uses

- 2.11.1. A previously legal building, structure, or use is a vested property right running with the land and is entitled to continue in accordance with the restrictions contained in this section unless otherwise specifically noted in these regulations.
- 2.11.2. Any use legally and lawfully established before the effective date of the adoption of these regulations, and thereafter made non-conforming by a change in regulations, resolutions, policies, or other instruments may continue unchanged, except that:
 - a. Any non-conforming building destroyed beyond 51 percent of its fair market value by natural disaster, fire, or accident shall



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not be allowed to rebuild or otherwise be re-established unless it is more conforming to these regulations. The Board of Zoning Appeals may grant exceptions to this rule if an owner would be left homeless or placed in an unfair economic hardship

- b. A non-conforming use may not be altered, changed, expanded, or enlarged beyond 25 percent of its original size unless these changes would:
 - 1. Result in a building or use that is more conforming to these regulations
 - 2. Correct deficiencies required for licenses, permits, or certificates
 - 3. Be consistent with routine maintenance or correct deficiencies for life safety or accessibility
- d. If the occupation of a non-conforming building ceases for a period of one (1) year, the use may not be resumed unless it conforms to these regulations.
- e. Any accessory use to a non-conforming use shall not continue if the principal use is discontinued.



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3. Organization, Appeals, and Special Procedures

3.1. Creation, Membership, and Rules of the Planning Commission

3.1.1. Authorization

- a. A Planning Commission is hereby created and appointed by the Board of County Commissioners. There shall be ten (10) regular voting members of the Planning Commission: two (2) members shall be appointed from each County Commission district and four (4) members shall be appointed at-large.

3.1.2. Membership

- a. Planning Commissioners may be appointed for terms of one, two, or three years, and each may serve for two (2) consecutive full terms without re-appointment from the County Commission. Following their second term, a Planning Commissioner may continue to serve, but the County Commission must re-appoint the Planning Commissioner at the conclusion of each subsequent term.
- b. Planning Commissioners shall be at least 18 years of age
- c. Planning Commissioners may be removed for cause including, but not limited to:
 1. *Failure to attend three (3) consecutive meetings or ¼ of scheduled meetings within a calendar year*
 2. Abuse of office
 3. Serious conflict of interest
 4. Abusive conduct
- d. Removal requires a majority vote of the Board of County Commissioners. Any Planning Commissioner removed from office shall have the right to file an appeal, within 14 days of removal, for a full hearing of the matter before the Board of County Commissioners.
- e. Appointments to fill vacancies of unexpired terms shall be made by the Board of County Commissioners.

3.1.3. Specific Duties

- a. To make or cause to be made a Comprehensive Plan for Pottawatomie County for submission and final decision to the Board of County Commissioners and to propose and recommend revisions and amendments to the Comprehensive Plan to the Board of County Commissioners.
- b. To conduct all required public hearings, and to decide if hearing should be adjourned from time to time, or conducted at a place, after official notice, more appropriate to the occasion.
- c. To recommend all actions, after hearing, concerning zoning text and map amendments, conditional or special uses, and final plats for consideration to the Board of County Commissioners.
- d. To review, for final approval or disapproval, all required site plans.
- e. To add conditions to subdivision plats and zoning map amendments when, in the opinion of a majority of Planning



Planning Commission Website

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Commissioners, such conditions are essential to the preservation of property values, the public health, safety, welfare, and the peaceful and quiet enjoyment of property.

- f. To grant area and bulk variances on preliminary subdivision plats when, in the opinion of a majority of Planning Commissioners, such variations are essential to preserve natural resources, overcome practical difficulty, and serve the public interest.
- g. To hold an annual meeting in June of each year for the purpose of electing a Planning Commission Chairperson, a Vice Chairperson, and Secretary. Elections shall be conducted using *Roberts Rules of Order* as a guide by voice vote.

3.1.4. Meetings

- a. All meetings shall be conducted by the Chairperson of the Planning Commission, or in his/her absence, by the Vice Chairperson or Secretary, or then by the most senior member. The Chairperson, and other officers, shall be elected by a simple majority of Planning Commissioners on an annual basis. All officers shall serve for one year, or until their successors are elected, and may succeed themselves for each year during their terms.
- b. All meetings (other than special meetings) of the Planning Commission shall be held according to the official Yearly Planning Commission Hearing Calendar at a location designated by the Chairperson of the Planning Commission. When there is no official agenda, a meeting may be canceled at the discretion of the Chairperson. The Chairperson, or the Vice Chairperson in the Chairperson's absence, shall have the power to call any special meetings, to change a meeting time or place, or allow Planning Commissioners to attend remotely. The Chairperson shall also conduct meetings in an orderly fashion and may use *Roberts Rules of Order* as a guide.

3.1.5. Rules for Voting

- a. The Chairperson shall vote only to break a tie vote. The Chairperson shall lead all discussions, and call for all votes.
- b. All official votes shall be by a simple majority of a quorum. A quorum is six commissioners present at any meeting.
- c. All votes shall be "yes" or "no" by voice of the members; written votes are not allowed. The Chairperson may require reasons for the vote from each Commissioner when the magnitude of the change requested for the plan or zoning change is extensive. Official votes shall also be written by the Secretary or designee in the form of minutes; minutes shall be approved each meeting.
- d. Any Commissioner, including the Chairperson, may disqualify themselves without stating reasons, by announcing the disqualification for the record and leaving the table at the beginning of a public hearing. In the case of a challenge by an applicant or member of the public, the Chairperson shall rule on disqualifications. Reasons for disqualification shall be, but are not limited to, the following:
 - 1. To avoid the appearance of impropriety
 - 2. If the Planning Commissioner is a property owner within the statutory distance for notification of a hearing
 - 3. If the Planning Commissioner is a relative, employer,



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employee, or a business partner of the Applicant

4. If the Planning Commissioner is an agent for the Applicant (in a business or legal capacity).
5. If the Planning Commissioner feels that he/she cannot render a fair and impartial judgment due to past association, hearsay, or actions of the applicant or member of a public hearing.

3.1.6. Conduct of Hearings

- a. An Applicant, or an agent for the Applicant, must be present to introduce a proposal for change, except that this rule may be waived by a majority vote of the Planning Commission. If an Applicant or agent is not present, and the item is tabled, then the Applicant shall automatically be granted an extension until the next regularly scheduled meeting of the Planning Commission. If the Applicant or agent fails to appear at the next regularly scheduled meeting, the item shall be deemed void and the applicant must reapply.
- b. All members (or their agents) attending a public hearing shall have the right to speak to the business at hand. The Planning Commission shall not hold a closed meeting or executive session. The Chairperson may set reasonable time limits for the duration of all discussions and comments. The Chairperson is authorized to suspend or amend hearing rules, or require *ad hoc* rules of order, control, and meeting management that furthers fairness and due process requirements. During the public comment portion of the hearing, parties shall speak in the following order:
 1. A member of the planning Staff opens the hearing by providing a report addressing the nature and location of the request. The report will include any requirements of these regulations or other regulations, as well as recommendations of Staff regarding the application.
 2. Next the applicant or agent introduces the proposal and may add or clarify to what was presented in the Staff report.
 3. The Chair will then ask for any conflicts, *ex parte* communications, or other needed disclosures from the Planning Commission
 4. *Next the chair will officially open the public comment period and the chair may follow the below order:*
 - a. *Those members of the public in favor of the proposal*
 - b. *Those members of the public against the proposal*
 - c. *Those members of the public who are neutral to the proposal*
 - d. *Any members of the public attending the meeting remotely*
 5. Applicant will have the opportunity to respond to any questions or comments made by the public
 6. The Chair shall officially close the public hearing phase of the particular business at hand
 7. The Planning Commission shall debate the application and may ask questions of the applicant or specific members of



the public prior to making a formal motion on the application.

- c. Following debate, the Planning Commission shall vote on the motion. Decisions of the Commission shall be based upon facts entered into the record at the hearing phase of the meeting, the recommendations of the Staff, the adopted plan, and the preservation of property values, health, public safety, and the general welfare.
- d. For zoning changes the below specific findings shall be made by Planning Commission:
 - 1. Character of the neighborhood
 - 2. Zoning and uses of nearby property
 - 3. Suitability of the applicant property to the land uses to which it has been restricted
 - 4. The extent to which the decision would detrimentally affect nearby property
 - 5. The length of the time the applicant property has remained vacant as zoned
 - 6. The relative gain to the health, safety, and welfare of the public as a result of denying this result as compared to the hardship imposed upon the individual landowner
 - 7. Conformance to the Comprehensive Plan
 - 8. Recommendation of the professional Planning Staff

3.1.7. Effect of Voting

- a. Votes shall be cast either as a "yes" or "no" on an issue. A majority vote "yes" shall be deemed to mean a positive recommendation to the Board of County Commissioners. A majority vote "no" shall mean a negative recommendation; a tie vote presented to the Board of County Commissioners shall have the same meaning as a "no" recommendation.
- b. In the case of a proposed zoning amendment to the land use map, conditional use or the regulation text, the vote of the Planning Commission is advisory. Upon receiving an advisory vote, the Board of County Commissioners may:
 - 1. Approve by resolution such recommendation
 - 2. Override the recommendation by a 2/3 majority vote
 - 3. Return the recommendation for study and reconsideration with a statement that specifies the reasons for refusal to approve or disapprove.
- c. If the Board of County Commissioners returns a recommendation, the Planning Commission may resubmit the original recommendation or submit new or amended recommendations without reconvening the public hearing. When the reconsideration is returned the Board of County Commissioners may, by simply majority vote, adopt, revise, amend, or reject such recommendations. Failure to return a recommendation on the part of the Planning Commission shall be considered a re-submission of the original recommendation.



Unified Development Regulations

3.2.8. Membership Requirements

- d. Members must be 18 years of age or older
- e. Members must be a current resident of Pottawatomie County

3.2.9. Composition of the Board

- f. Five members of the Pottawatomie County Planning Commission shall serve as the Board of Zoning Appeals.

3.2.10. Service of Members

- a. Members may be removed by the Board of County Commissioners for just cause, violation of conflict of interest, bias, and failure to attend scheduled meetings.
- b. Appointments to fill unexpired terms shall be made by the Board of County Commissioners using alternates, or by selecting new members from County Commission districts.

3.2.11. Duty of Chairperson

- a. The members of the Board of Zoning Appeals shall annually elect a Chairperson and a Vice-Chair. The members elected shall not be the same Chairperson or Vice-Chairperson of the Planning Commission
- b. The Chairperson of the Board of Zoning Appeals shall call all meetings (and designate the location of meetings) on request of the Zoning Administrator, County Planner, and/or Board of County Commissioners.
- c. The Chairperson shall also conduct meetings in an orderly fashion and may use *Roberts Rules of Order* as a guide.
- d. The Chairperson shall insure that all final orders or decisions of the Board of Zoning Appeals are rendered, in writing, within 60 days of the original hearing date.
- e. The Vice-Chair shall serve in the absence of the elected Chairperson, and following this, the most senior members shall serve as Chairperson *pro tempore*.

3.2.12. Meetings and Votes of the Board

- a. The Chairperson shall conduct all meetings and take all votes. Meetings shall be held at a time and place designated by the Chairperson
- b. All votes shall be "yes" or "no" by voice, with a taped record and written minutes kept of each session. Abstentions shall not be allowed, but members may disqualify themselves, for cause, in accordance with the Guidelines for Conflict of Interest listed above in Article 3.1.5 above.
- c. If a member disqualifies themselves, the Chair may designate one of the alternates to fill his or her place on the Board of Zoning Appeals
- d. All hearings before the BZA shall be open to the public. The BZA may, however, adjourn a hearing from time to time, and may meet in closed session to debate the record created at the public hearing. The BZA shall issue its findings to applicants orally immediately following a hearing or in writing within 60 days after the first hearing, unless the applicant requests an extension of time.



- e. The BZA is a quasi-judicial body, and therefore due process is required for all official hearings. All persons wishing to give testimony before the BZA shall be administered an oath or affirmation by the Chairperson. The hearing procedure thereafter shall be the same as for the Planning Commission.
- f. The Chairperson of the BZA may establish, from time to time, reasonable limitations on testimony, and shall have the power to rule on objections and other points of order raised by a Commissioner, an applicant, or member of the public hearing. The Chairperson shall have the authority to rule out of order testimony that is not factual, based upon supposition or hearsay.

3.2.13. Duties of the Board of Zoning Appeals

- a. The BZA is hereby authorized to hear appeals from any person or official affected by any decision of the Zoning Administrator or County Planner. In exercising the power of appeals, the BZA may reverse amend, modify, or affirm any discretionary act, requirement, decision, or determination of the Zoning Administrator. To this end, the BZA shall have all of the powers of the officer from whom the appeal is taken, may attach appropriate conditions, and may issue or direct the issuance of a permit.
- b. Any person, official or governmental agency dissatisfied with any order, determination, or action of the BZA may bring action in the district court of the County to determine the reasonableness of any action or order. Such appeals shall be filed within 30 days of the final decision of the Board.

3.2.14. Procedure for Appeals

- a. The appeal must be brought within 60 days of the final decision or action of the Zoning Administrator
- b. The appellant must file the proper forms provided by the Zoning Administrator, and pay the posted appeals fee
- c. Notice of the appeal must be published once in the official County newspaper, at least 20 days prior to the hearing
- d. The appellant or agent must appear before the BZA on the appointed time and day for the hearing. Failure to appear, unless waived by the BZA for cause, shall result in a dismissal of the appeal, and shall require re-application unless the 60 day time limit for appeal has passed
- e. When an appeal is filed, the action of the Zoning Administrator or County Planner shall be stayed pending a final decision of the BZA
- f. Actions of the BZA are final orders and are not sent to the Board of County Commissioners for review or approval

3.2.15. Variances

- a. To authorize, in specific cases, a variance from the specific terms of the regulations which would not be contrary to the public interest, and, due to special circumstances, where a literal enforcement of the provisions of the regulations, in an individual case, results in an unnecessary hardship, and provided that:
 1. The spirit of the regulations is observed
 2. The public safety and welfare is secured



Unified Development Regulations

3. Substantial justice is done in contrast to a mere favor or special benefit
- b. In order for the BZA to grant a variance, the board must specifically find for the record that:
 1. The variance arises from a condition unique to the property in question, and is not a general condition found in the neighborhood
 2. That granting the variance will not adversely affect the rights of adjacent property owners or residents
 3. That strict adherence to the regulations in the specific case will constitute unnecessary hardship upon the property owner requesting the variance. The board must determine that hardship is greater than the economic disadvantage and in fact extends to a means of livelihood, a matter of protecting title to a property, or if left uncorrected, would result in a severe and irrevocable change in the applicant's ability to transfer property. A hardship may also be construed to be honest error imposed upon a property owner by a ministerial official, or licensed professional, or through eminent domain or zoning resulting in a substantial loss of property rights.
 4. The variance desired will not adversely affect the public health, safety, morals, or welfare, convenience, prosperity, or general order

3.2.16. Requirements for Applicants - Supporting Data for Variances

- a. Unless otherwise notified by the County Planner, all applications for a variance or exception shall be accompanied by the following supporting data:
 1. An accurate legal description of the property
 2. A map of the property from the GIS Department of Pottawatomie County
 3. Fill out and submit all forms provided by the staff
 4. An appointment with the staff to review the variance. If possible, bring photos that clarify the need for the variance and help to document the hardship
 5. A Statement of Purpose that explains the need for your variance. Explain or clarify and extenuating circumstances that would help to support the need for the variance.

3.3. Representatives and Agents

- 3.3.1. Nothing contained in this ordinance shall be construed as prohibiting the right of any applicant or a member of the public hearing to retain an agent to represent them before the Planning Commission, BZA, or Board of County Commissioners. Likewise, legal counsel may be used to represent any person having business pertaining to these regulations. All persons, and their agents or counsel, have a right to speak at the designated time, submit written comments for the record, make objections, note exceptions, or request points of clarification for the record during public hearings.



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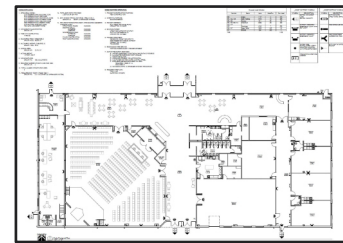


Unified Development Regulations

4. Site and Sketch Plans, Plats, and Physical Development

4.1. Site Plans

- 4.1.1. The site plan is a scale map of proposed buildings, structures, parking areas, easements, roads, landscaping, and other County requirements used in physical development, that, when approved by Staff and Planning Commission, shall create an enforceable obligation to build and develop in accordance with all specifications and notations contained in the site plan instrument. All site plans shall be signed by the applicant prior to the issuance of any development permit. A final site plan filed for record indicates that the applicant is required to perform all obligations and requirements contained therein.
- 4.1.2. Site plans are required for structures in the following zoning districts:
 - a. In all commercial districts, including AB - Ag-Business
 - b. In all manufacturing districts
 - c. For certain uses as specified in A1 - Agriculture, Institutional and other overlay districts, Residential zoning districts, and Planned Development Districts
 - d. For conditional uses when recommended by the County Planner, or required by Planning Commission
 - e. *Other uses as determined by the County Planner when issues of drainage, circulation, or other site-specific issues warrant the need for a site plan*
- 4.1.3. Electronic copies or three hard copies of the site plan must be submitted to the County Planner at least 30 days in advance of a scheduled Planning Commission or Board of Zoning Appeals meeting.
- 4.1.4. Site plans must be in a 24x36 inches format (or a format specified by the Direct or Planning). The scale shall be a professionally accepted standard suitable to the area of the purposed project.
- 4.1.5. Each site plan, unless otherwise modified by the County Planner, shall contain the following information:
 - a. Front or Cover Sheet
 1. A scale vicinity map showing the relationship of the site to the surrounding neighborhoods, roads, and other physical features. The owners of all adjacent tracts/lots must be noted
 2. A project title, zoning designation, and project sponsor. A street address, and legal description
 3. An index to contents, and a data table which, at a minimum, includes: acreage of the site and number of units per acre (if applicable); gross square feet of the building area; the proposed use of each building; the number of employees and the 2018 (or most recent adopted) International Building Code Occupancy Design Load; total number of parking places.
 4. The name of the architect, engineer, surveyor, and/or draftsman



Site Plan Example
(Click for more detail)



5. The following certificates and signature blocks:

CERTIFICATE:

Received and placed on record this _____ day of _____, _____
 {County Planner} _____

Approved by the Pottawatomie County Planning Commission this _____ day of _____, _____
 Chair of the Planning Commission _____

Permission for parking to encroach within setback lines is not granted according to my marked notations:

{Zoning Admin.} _____ Date: _____

I certify that I have reviewed all sanitation, entrance, drainage and road requirements for this site plan according to county specifications

{County Engineer} _____ Date: _____

I certify that I have reviewed this SITE PLAN and will comply with all specifications, changes, and amendments herein, and that this instrument creates a legally enforceable obligation to build and develop in accordance with all final agreements.

Applicant signature _____ Date: _____

f. Sheet #2:

1. Topography at reasonable intervals
2. Erosion control mechanisms
3. Exterior lot lines with any survey pins
4. The location of easements
5. Connection points for utilities
6. Footings and cross-sections (if requested)
7. Location of buildings
8. Parking areas, paths, walks with sizes and surface material specifications
9. Site entrance and connection to streets
10. Exterior lighting specifications
11. Features to facilitate handicapped access
12. A sketch of the entry sign, and all other signs to be used on the premises
13. Profile and detail for roads (if required)

g. Sheet #3

1. A landscape plan drawn to scale, showing the site, building location, planting and seeding schedules
2. Refuse and other outdoor storage screening and boundary screening
3. Screening and landscape elements shall be shown in



Unified Development Regulations

relation to sidewalks, paths, lawns, parking areas, and drives

4. A table entitled "Planting Schedule" which lists the common name, size and condition of all planting materials, together with a timetable for planting

e. Sheet #4

1. Scale drawing of the building(s) floor plans on the lot
2. Dimensions and use of rooms and areas
3. Dimensions of entrances/exits and corridors
4. Interior specifications for disability access as required by the 2018, or most recently adopted, International Building Codes
5. Floor drains and sewer clean-outs

f. Sheet #5

1. Scale drawings of all building elevations (profiles)
2. Roof pitch and materials
3. Siding type and materials, including facie

4.1.6. Projects within an area with adopted building codes shall include all information necessary to properly review and approve the project

4.1.7. In special circumstances, such as buildings used for assembly, the County Planner may require additional sheets for mechanical and electrical building materials specifications. The Planning Commission/County Planner may also require additional information for hazardous material or other environmental impacts.

4.1.8. Parking - General (see Article 7 Table C-5)

4.1.9. Parking Design

- a. Parking spaces may be located within the building envelope (inside the required front, side, and rear setbacks). A green area must be provided between the parking area and the property lines - if platted (minimum eight (8) feet or as required in each article)
- b. Parking spaces must be built on a prepared bed with an asphalt or concrete surface. Pavement design and parking layout design depend upon the need for traffic control, amount of parking, nature and size of the vehicles, in-out traffic flow and visual design. Unless waived, the minimum design space is 9.5 feet by 18 feet for each parking stall

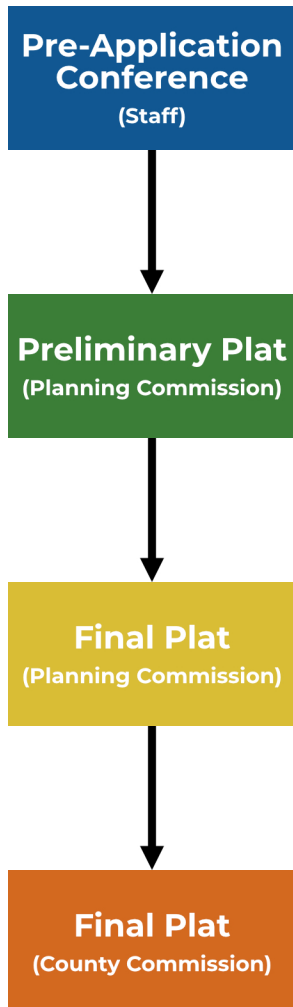
4.2. Regular Subdivision Process

4.2.1. Land determined by the County Planning Commission to be premature or unsuitable for subdivision development due to physical and location constraints shall not be subdivided or developed unless methods are used to solve the problems created by these unsuitable land conditions.

4.2.2. For the purposes of health, safety, general welfare, and the implementation of the Comprehensive Land Use Plan of the County, all residential development for more than two houses in a quarter-quarter section, and all new non-residential development shall be platted and subdivided according to County subdivision regulations



Unified Development Regulations



- a. This does not include permitted uses in A-1 and A-2 zoning districts
- b. Redevelopment of a previously un-platted, non-residential tract shall constitute "development".
- c. An exception from platting and the requirement of a paved road for a third dwelling shall be granted to any original quarter of a quarter section of land that was zoned residential before January 1, 2012.

- 4.2.3. When deemed necessary by the County Planner and Zoning Administrator, a pre-application conference is required prior to the preparation of a plat. The conference affords an applicant the opportunity to meet with the planning staff and receive assistance and exchange information before formal work commences on the project. The conference consists of the following steps:
 - a. Contact the County Planning and Development Office
 - b. With staff assistance, determine the current zoning designation and intended use of the property to be subdivided. If the land is not zoned for the intended use, review the Comprehensive Plan and read the contents of the plan with regard to future intentions. Amendments to both the Comprehensive Plan and zoning map may be required, and waiting period of from 60 to 120 days may be necessary to process the required amendments.
 - c. The applicant shall meet with County Administration to review necessary financial assurances.
 - d. Staff will review pertinent requirements for platting, including roads, easements, physical arrangement and density, and general regulations for public water and sewer connections. When necessary, the County Engineer will give specific instructions for the initial design of facilities.
 - e. With the Applicant, Staff and the County Sanitarian will review all Sanitary Regulations and Flood Insurance Rate Maps that are currently adopted in Pottawatomie County
 - f. Contact a licensed land surveyor and registered professional engineer or landscape architect to begin the initial phase of subdivision. Please note that only a Kansas Licensed Land Survey may conduct the actual certificate of survey or plat/condominium
- 4.2.4. Following the pre-application conference, Applicant shall submit a Concept Plan to Staff for review. Applicant must submit either three (3) hard copies on 24 inches by 36 inches paper or one (1) electronic copy of the same size
- 4.2.5. After Staff has reviewed and Applicant has satisfactorily corrected any deficiencies in the concept plan, Applicant may formally submit a preliminary plat for review. Applicant must submit five (5) hard copies or one (1) electronic copy of a preliminary plat to the County Planner. The plat should be on regular quality paper either 18 inches by 24 inches or 24 inches by 36 inches
- 4.2.6. The preliminary plat is the main review instrument used by the Planning Commission. The Planning Commission must approve the preliminary plat, with any notations, variances, and changes, before the applicant proceed with the final platting stage. To accomplish this end, the Planning Commission shall have the following authority, options, and powers:
 - a. The authority to require the modification of any plat to conform



Unified Development Regulations

to these unified development regulations, including traffic, storm water discharge, and recreation/open space, or to modify or add conditions to any plat when such action increase the public convenience, the goals of the Comprehensive Land Use Plan, supports property values, or secures the public health, safety, and welfare.

- b. The authority to vary setbacks and yard sizes to overcome practical difficulties, or to promote best practices in land design. Also, the authority to vary yard sizes and placement in planned unit developments, and approve plats containing zero lot line or cluster provisions
- c. The authority to compel applicants to the file easements and dedicate public roads and facilities necessary to serve the residents of a development, protect the use and value of neighboring property and to promote the public safety and welfare
- d. The authority to compel applicants to offer for dedication or reservation such property as necessary to safely, conveniently, and effectively serve the general welfare, promote good standards of land use, and to advance the practice of agriculture preservation and the preservation of other natural resources
- e. The authority to require that all preliminary plats are reviewed and approved by the utility companies that will serve the development

- 4.2.7. If the preliminary plat is found to conform in all respects with the Unified Development Regulations, and other County requirements, the Planning Commission must approve (by majority vote) and sign the plat
- 4.2.8. If the preliminary plat does not conform in all respects with the Unified Development Regulations and modifications made by Planning Commission, the Planning Commission must either vote to disapprove the plat, or table the plat for a later date to allow the Applicant to correct any deficiencies
- 4.2.9. When a corrected preliminary plat is returned by the applicant for review, the Planning Commission must vote to accept or deny the plat. If denied, the applicant who continues to pursue approval must reapply for a first hearing
- 4.2.10. If a preliminary plat is approved by the Planning Commission, the applicant must submit a final plat to the Planning Commission for review
- 4.2.11. The question of final plat approval will be placed on a consent agenda at the next regularly scheduled meeting of the Planning Commission. If the final plat substantially conforms to the preliminary plat, the final plat shall be signed *pro forma*. Alternatively, a majority of the Planning Commission may authorize the Chair and Secretary to sign all final plats at a time and place designated by the Planning Staff
- 4.2.12. After Planning Commission approves the final plat, the Board of County Commissioners shall examine the plat to ensure conformance with all county road standards, offers of dedication, and financial assurances. The BOCC must either resolve to accept the plat, require modifications to conform to County standards and policies, return the plat to the Planning Commission for modification, or refuse its acceptance. If returned to the Planning Commission or refused, the reasons must be set forth in writing.
- 4.2.13. If a final plat is refused because of failure to adhere to County road

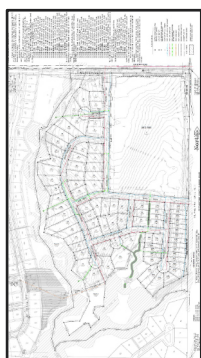


standards, if offers of dedication would be contrary to public policy, or if financial assurances are insufficient, the matter has reached closure, and the plat may not be filed.

- 4.2.14. After both Commissions sign the final plat, the applicant shall secure all staff signatures (which denote "complies with all requirements"), a certificate of title, proof of financial assurance, and file the instrument with the Register of Deeds unless extended by the Planning Commission. Otherwise, the plat shall be considered null and void and expired and the process of approval must start again

4.3. Technical Requirements of Concept Plans, Preliminary Plats, and Final Plats

- 4.3.1. The concept plan is an informal, scaled drawing and must contain, at a minimum, the following information:
- a. Sketch of the proposed lot layout
 - b. Proposed street layout
 - c. Estimated acreages of individual lots
 - d. Major drainage courses
 - e. An aerial photo of the property
 - f. Adjacent roads and property boundaries
 - g. Proposed use of the property
 - h. Proposed utility service
 - i. Floodplain and watershed dam breach hazard
 - j. Taxing units (if applicable)
 - k. If the proposed subdivision will utilize lateral fields or lagoons, the County Sanitarian must be supplied with adequate physical data necessary to evaluate the type, size, and overall suitability of the project. Typical information that must accompany the sketch plan for sanitary purposes would include a soils analysis or a profile analysis, percolation tests, direction of drainage, and other information deemed necessary by the sanitarian
- 4.3.2. All preliminary plats shall contain the following:
- a. A north point and scale which is appropriate to the size of the development. Generally one inch equals 100 feet unless another scale is shown to be more appropriate and approved by Staff
 - b. A legal description and current zoning designation
 - c. Names of applicant, subdivision, and proposed streets
 - d. Name and seal of surveyor/engineer
 - e. Preparation date, adequate legend and vicinity location map
 - f. Signature blocks for:
 1. County Planner
 2. Zoning Administrator
 3. County Engineer



Preliminary Plat Example

(Click for more detail)



Unified Development Regulations

4. Emergency Management Director
5. Fire Supervisor
6. County Sanitarian

7. Public Works Administrator

- h. Complete delineation of all boundaries, existing easements, lots, streets, and drainage courses. Boundaries must be shown as solid lines and all easements as dashed lines
- i. Existing features such as ponds, lakes, buildings, roads, and upstream watershed data, including estimated elevation of flood waters from a designated flood retarding dam breach
- j. A vicinity context sketch of the surrounding properties (with tract/owner names), buildings, water courses, and general features within 300 feet of any boundary (this distance may be waived or modified by Staff for sufficient justification)
- k. Rights-of-way and/or existing or proposed easements to be created for all drainage purposes, utilities walk-ways, access, and other purposes.
- l. The location of the water/sewer distribution/collection system and easements related to those systems. The plat must show that the easements touch upon each lot.
- m. Proposed means and location of sewage collection and water distribution points
- n. Total acreage and size of each lot. If necessary, lot information shall be provided in a lot data table
- o. Contours at intervals set by Staff. Staff may waive or amend this requirement depending on terrain, location, and the nature of the project. Wash-outs, sink holes, and other important surface features must be noted
- p. Front setbacks and setbacks along public rights-of-way
- q. Location of fire hydrants/water re-fill points, if required by the Fire Supervisor
- r. The location of storm drainage facilities and collection points and water detention/retention facilities
- s. The location of perimeter walls, landscape berms, and/or fences
- t. The location and size of entry signs
- u. The location of any floodplain
- v. The preliminary plat must be accompanied by a feasibility study if the development will not be served by central sewer and water. The feasibility study shall indicate quality and gallons/minute of water available for individual wells, and general suitability of the soil for laterals or lagoons.

4.3.3. The Final Plat shall contain the following data:

- a. An appropriate scale approved by the Planning Staff
- b. North point, vicinity map, and legend that explains all lines and symbols used on the plat
- c. The words "Final Plat" followed by the name of the subdivision



Final Plat Example
(Click for more detail)



at the top of the sheet

- d. Metes and bounds description of the tract sufficient to enable the description of the subdivision to be plotted and retraced for closure that conforms to Kansas minimum surveying standards
- e. The instrument of survey which shows the point of beginning, corners, bearings, courses, distances, exterior boundaries, interior lot boundaries, abandoned lot lines, pins, and monuments found or set. All P.I.s corners, and boundaries must be monumented with a ½ inch by 24 inches metal bar. All monuments found must be accompanied by a reference to their origin that includes evidence of possession beyond the surveyed premises used to establish the corners of property. Survey monuments of external boundaries of all platted subdivisions shall be set not more than 1,400 feet apart along any straight boundary line, at all angle points, at the beginning, end, and all points of change of direction or change of radius of any curved boundaries defined by circular arcs, at the beginning and end of any spiral curve, and at all public land corners.
- f. Individual notations and a table showing: lot area, setbacks, and building envelopes (if required because of diverse physiography and/or requested by the Planning Commission)
- g. A table for street curve data. The data for each curve shall include: radius, tangent, arc length, delta, chord length, and chord bearing
- h. FEMA Flood Plain information stating the flood zone, FEMA map number, and effective date
- i. A number for each lot, starting (if possible) in the northwest corner. A and B lots may be used for large lots in anticipation of future lot splits. If this option is used, a distinct line should be employed to delineate the A and B lot
- j. All easements and widths
- k. Ingress/egress points to the development
- l. Method of water and sewer service and the location of fire hydrants and manholes
- m. Notations for explanation and/or to indicate an irrevocable promise to perform some duty or obligation during the development stage within the subdivision
- n. Notations for the reservation or dedication of lots/tracts for open space, recreation, or land assigned to the Homeowners Association
- o. The location of emergency warning systems for storms and flood
- p. An instrument of dedication for all roads and easements
- q. A statement which notes that setbacks, yards, or building envelopes are "hereby established on the plat and no building or structure, or portion thereof, may be erected between this line and the street or adjacent lot line"
- r. A notation, if applicable, indicating the book and page for conditions, covenants, and restrictions
- s. Required certificates

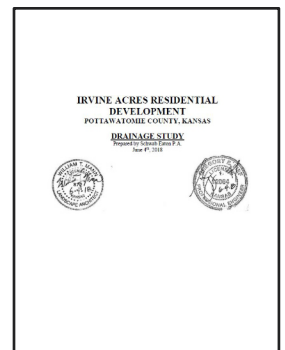


Unified Development Regulations

1. Owner's certificate
2. Notary certificate with seal attesting owner's signature(s)
3. Certificate of the County Commission to accept dedications
4. County Clerk's attest and seal
5. Pottawatomie County Planning Commission endorsement for Chairperson and Secretary
6. A two inches by four inches space for recording label
7. Surveyor's certificate and seal
8. Review surveyor certificate and seal
9. Staff review and approval for Zoning Administrator, Sanitarian, County Planner, County Engineer, Emergency Management Director, Fire Supervisor, County Counselor, *Public Works Administrator*
10. Special certificates as required
11. A separate certificate of title prepared by a licensed abstractor

4.4. Required Studies and Data for Subdivision Review

- 4.4.1. The studies and data in this section are required as part of a formal submission of a preliminary plat
- 4.4.2. Pottawatomie County requires a hydrology/drainage study containing the information listed in the sections below and in current county drainage specifications as part of the subdivision process for any development disturbing one (1) acre or more. Projects with an overall density of 0.2 dwellings per acre or less, and projects consisting of fewer than five lots may be issued modified requirements from the County Engineer
 - a. The required volume for storm water detention shall be calculated on a minimum basis of the runoff from a 25 year frequency rainfall with an intensity of not less than the values listed in the report developed for KTRAN Research Program for KDOT entitled "Rainfall Intensity Tables for Counties in Kansas" take from Pottawatomie County rainfall data, and a minimum storm duration of 15 minutes. Specific information must include, but is not limited to:
 1. Hydrology map (topographic) showing all drainage basins (on-site/offsite tributary areas) for existing and proposed conditions
 2. Land use and soil group maps showing girds in developing C-values
 3. A drainage table for pre-development versus post-development showing all points of concentration (on-site and off-site) and data including narrative on adequacy of all drainage facilities impacted directly by the proposed development
 4. Show 100-year flood lines of inundation on map for channels with drainage basins greater than 25 acres
 5. Appropriate floodplain/floodway maps for Pottawatomie County and identify all flood hazards.



Drainage Study Example
(Click for more detail)



6. Peak runoff rates (cfs), velocities (fps), and identification of all erosive velocities (at all points of discharge) calculations for pre-development and post-development (rational model). The comparisons should be made about the same discharge points for each drainage basin affecting the site and adjacent properties
7. Demonstrate the pre-development drainage conditions, post-development conditions, and any adverse impact due to increase in peak flow rate and velocity
8. Show adequacy of impacted off-site/on-site drainage facilities such as culverts, inlets, channels or other drainage structures
9. Address local drainage facilities receiving additional runoff due to the proposed development and identify any runoff contribution that would exceed the capacity of existing drainage systems.
10. Address all flow paths (on-site and off-site) on a hydrology map
11. Show proposed public storm drain systems requiring off-site public drainage easements due to an increase in off-site drainage discharge
12. Obtain and include letter(s) of permission for any increase in off-site drainage discharge resulting from the proposed development
13. Summary/conclusion of project drainage impacts on existing drainage facilities and proposed mitigation

4.4.3. All developments disturbing more than one (1) acre shall develop an erosion control plan consistent with the requirements of Kansas Department of Health and Environment Construction Storm water Permit

4.4.4. County adopted traffic impact and circulation studies, guidelines, and procedures define when proposed concept subdivision plans, commercial development and other land uses warrant a detailed traffic study and what information should be included in it (see Appendix A of these Regulations). The specific purpose of these studies is to:

- a. Provide guidance for short and long-range planning for site access
- b. Provide guidance for on-site circulation and the interface between on-site circulation and off-site traffic
- c. Provide guidance for off-site improvements needed to permit the roadway system to function satisfactorily so as to accommodate site and non-site traffic.

4.4.5. Features of the traffic study, as required by current county traffic study specifications include, but are not limited to the following:

- a. Description of the project and area of study
- b. Analysis showing existing conditions within the study area
- c. Analysis showing conditions as they would exist without the project at the time of the proposed project's estimated completion
- d. Analysis of existing conditions plus conditions as they would

IRVINE ACRES DEVELOPMENT
POTTAWATOMIE COUNTY, KANSAS

TRAFFIC IMPACT STUDY
May 26, 2018

Prepared by:
Joe Rodin, P.E.
Schuchman
1127 Garden Way
Midland, KS 66502

Traffic Study Example
(Click for more detail)



Unified Development Regulations

exist upon completion of the project

- e. For projects that require amendments to the Comprehensive Land Use Plan, an analysis may be required to show the long-term effects of the project compared to conditions without the project over a period of at least 20 years.

- 4.4.6. All proposed residential development plats consisting of more than 20 acres shall be accompanied by an "area recreation and open space plan". The plan shall address strategies to provide open space and recreation to the residents of new housing developments and methods for connecting individual residential lots to common facilities. The Planning and Development Staff may waive any or all parts of the open space/recreation plan for rural subdivisions.

4.5. Required Infrastructure and Dedications

- 4.5.1. All developers are required to install infrastructure subject to approval after county inspection, and provide other services to all lots as they appear on the final plat prior to receiving a building permit
- 4.5.2. All subdivision entrances must be located on a continuously paved County road at the final plat is approved
- 4.5.3. For any proposed developments not located on a continuously paved County road, Applicant and the Board of County Commissioners shall enter into an agreement for the paving of the road(s) prior to the submission of a preliminary plat
- 4.5.4. All new subdivisions consisting of more than two (2) lots shall be served with public, paved internal roads developed under current County engineering standards.
- 4.5.5. For small, rural subdivisions located within ½ mile of the small communities of Duluth, Fostoria, Blaine, Havensville, Onaga, Olsburg, Wheaton, Westmoreland, and Emmett, Planning Commission may waive the requirement that the subdivision be located on a continuously paved road and have paved internal roads
- 4.5.6. Applicant shall dedicate right-of-way land for adjacent county roads in an amount equal to one-half of the total adjacent right-of-way necessary to make the total right-of-way 80 feet, unless otherwise indicated by the County Engineer
- 4.5.7. *Travel easements and/or private roads are prohibited in subdivisions of more than two (2) lots as a connection unless unusual circumstances indicate that it would be in the public interest to allow access in the form of a surveyed, irrevocable travel easement rather than a public road. Approval of a travel easement is discretionary by the County and must meet, but is not limited to, the following criteria:*
 - a. *The travel easement's connection to a public road must be approved by the County Engineer*
 - b. *The easement must be 60 feet in width*
 - c. *All travel easements created under the provision of these regulations shall appear on a survey instrument prepared by a Kansas Registered Land Surveyor and filed for record with the Register of Deeds*
 - d. *A travel easement shall serve a single lot, unless unusual circumstances dictate otherwise*
- 4.5.8. Subdivisions that require connection to a Public Water Service



District (PWSD) shall install the necessary infrastructure according to the standards and requirements of the PWSD

- 4.5.9. When a subdivision is not required to be served by a PWSD, the applicant shall submit well log or test water well drilling reports to the Staff that indicates that potable water is present in sufficient quantities to serve the development.
- 4.5.10. When a proposed subdivision is located in a sewer benefit district, or if annexation into a sewer district is contemplated, the applicant must provide connection the nearest interceptor or main, create utility easements which touch upon all lots, and install the collection system in all approved phases so that connection points touch upon each lot.
- 4.5.11. Infrastructure financed through a special benefit district or developer agreement shall include a financial assurance such as a letter of credit, surety bond, or other similar agreement. The financial assurance must be made in a form and amount acceptable and approved by County Administration. The value assigned to the financial assurance shall be drawn for a time period specified by current county policy if substantial progress to install the infrastructure is not evident within a reasonable time, as specified in writing by the County
- 4.5.12. The Zoning Administrator may not issue a building permit on lots in new and on-going development until all public roads and utilities are inspected and accepted, unless waived by the County Engineer

4.6. Subdivision Design and Public Improvement Standards

- 4.6.1. Design of the development shall take into consideration all existing County and regional plans applicable to the area developed. The General Subdivision Design and Public Improvement Standards shall be adhered to in all subdivisions
 - a. Internal street rights-of-way must be a minimum of 60 feet wide unless otherwise indicated by the County Engineer after preliminary review. Widths up to and including 120 feet may be required in unusual circumstances
 - b. Alley rights-of-way shall be a minimum of 20 feet
 - c. All developments are required to provide connectivity to adjacent road networks or to adjacent undeveloped tracts at the perimeter of the proposed preliminary plat unless waived by the County Planner
 - d. When providing a future connection to an adjacent, undeveloped tract, a temporary turnaround may be required when the dead-end road extends more than 250 feet or services more than five (5) lots
 - e. All portions of the tract(s) to be developed shall be taken up in lots, streets, planned open areas or other uses so that remnants and landlocked areas are not created
 - f. Layout of lots and blocks should provide desirable settings for structures by making use of natural contours, maintaining existing views, affording privacy for the residents, and protection from adverse wind, noise, and vehicular traffic
 - g. Corner lots shall have two equal front building setbacks, or designate on the plat the street which the entrance will be located
 - h. Side lot lines shall be substantially at right angles, or radial, to the center of curvature of the street or road on which the lot



Unified Development Regulations

fronts. Where lot lines are not at right angles or radial to street lines, this shall be indicated on the final plat

- i. Building setback lines shall be 100 feet from the thread of a stream.
- j. The average lot depth shall be no greater than three (3) times the average width unless waived by the Planning Staff
- k. Development design should provide for efficiency in installation and provision of all public and private facilities and services
- l. Lot dimensions shall conform to the applicable zoning regulations contained herein
- m. Double frontage lots should be avoided except where essential to provide separation of residential development from expressways, major arterials, or to overcome specific disadvantages of topography and orientation
- n. Lots should be arranged to minimize the number of out-lots
- o. Flag lots are not permitted
- p. As a general rule, utility easements must be placed on all sides of a lot unless the applicant presents an acceptable general plan for providing public services
- q. Utility easements shall be 20 feet in width or 10 feet on either side of a lot line, larger easements may be required in individual projects
- r. Flowage easements may not be used to calculate required minimum lot sizes

4.6.2. Urban Subdivisions - The purpose of good urban subdivision design is to create a functional and attractive development, to minimize adverse impacts, and to ensure that a project will be an asset to the community. To promote this purpose, urban subdivisions shall conform to the following standards:

- a. Proposed subdivisions shall consist of blocks that are rectilinear or curvilinear in shape whenever possible. No block face shall exceed 800 feet in length
- b. Access to lots with street frontage of 60 feet or less must be provided by alleys. All streets and alleys shall, where practicable, terminate at other streets within the neighborhood.
- c. Cul-de-sacs and other dead ends shall not be permitted except in instances where topography makes street connections impracticable. In such instances, cul-de-sacs and other dead ends shall not exceed 400 feet in length. Any proposed development that contains cul-de-sacs shall include pedestrian/ bicycle connections to adjacent areas of the subdivision. Dead-end alleys are prohibited
- d. For the purposes of public safety, all subdivisions shall provide a minimum of two ingress/egress roads, and one additional ingress/egress road per every 100 lots in a proposed development. The County Engineer shall designate and approve all means of ingress/egress to a development and may require, for the purpose of public safety, changes in the proposed number and location of ingress/egress roads.
- e. Sidewalks shall be required on both sides of streets within the subdivision, excluding alleys.



- f. Internal sidewalks/bike paths shall have a connection to existing sidewalk/bike path infrastructure where present
- g. Any lots held in common shall have sidewalks/bicycle paths within six (6) months of the opening of lots for building
- h. Public sidewalks/bike paths may be required through blocks in order to provide efficient connections to features of a subdivision for any block face longer than 600 feet
- i. All new urban subdivisions shall set aside open space and recreation areas in accordance with an area open space and recreation plan. The central elements of subdivision green space are the following:
 - 1. General common open space with a balanced effort to provide a mixture of natural, undeveloped areas and space for accessible passive and active recreation
 - 2. Recreation facilities with a concentration of bike/walking paths by the developer and active recreation areas by a homeowners association
 - 3. Community gardens and/or small parks
 - 4. Lot(s) reserved for community buildings
 - 5. Conservation easements to preserve green edges, hedge rows, tree copses, floodplains, and natural areas
 - 6. At least one feature of a subdivision's area recreation and open space plan must be within ¼ mile of 80% of the lots within the subdivision
- j. Lots must front a public right-of-way or, in limited cases, a public square. In cases where a lot fronts a public square, access must be provided by an alley
- k. Landscaping shall be provided, and existing (suitable) vegetation shall be used as a buffer between different types of uses both within and adjacent to a development, and when lots abut roads classified as arterials or major collectors
- l. In cases in which alley access is required, access to lots shall be prohibited from the fronted public road right-of-way
- m. Utilities must be buried under alleys where present
- n. Public right-of-way easements may be required in order to construct future arterial and collector streets
- o. Easements may be required in order to extend public sewer and water infrastructure to adjoining parcels suitable for future urban development
- p. The plat must bear a notation that the subdivision is to be served by public water and sewer facilities. The Zoning Administrator may not issue a building for a lot notated served by public water/sewer without written verification from the public water or sewer district that all distribution or collection lines have been installed and that all lots are either connected to or are capable of being connected to central utilities

- 4.6.3. Rural Subdivision - The purpose of good rural subdivision design is to create attractive communities with minimal impacts on the rural and natural qualities of the area. To promote this purpose, land development projects and subdivisions shall conform to the following standards:



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- a. All new rural subdivisions may be required to provide a pedestrian/bike plan the features of which may include, but are not limited to, the following:
 1. A dedicated 10 foot strip of land, on one each side of the street, for the future construction, by the residents, of a sidewalk or trail
 2. A walking/bicycle trail that connects as many lots as possible to rights-of-way and other features in the subdivision in a circular (looped) fashion
- b. Unless waived by Staff, as part of the "area recreation and open space plan", all new rural subdivisions shall take care to preserve environmentally sensitive areas such as, stands of uncommon tree types, important view sheds as determined by the County Land Use Plan, and flood plain, from development. This may be accomplished through any of the following:
 1. Conservation easements
 2. Lot(s) held in common
 3. Dedicated park/open space
 4. Trails and bike paths
- c. Lot sizes shall be based on the recommendations of the County Sanitarian to ensure that proper wastewater treatment systems, and, if necessary, wells can be located on the lots
- d. Lots should use natural and man-made divisions such as fences and easements, as their boundaries
- e. Newly created lots should be located nearest to utilities and roads to minimize the amount of construction of these improvements and the loss of agricultural land
- f. All lots must front a public right-of-way
- g. Common water and sanitation facilities must be located on separate out-lots owned in common by the users
- h. Lots less than five (5) acres in size must be connected to a central water distribution system, with a meter installed or provide verification for an application for a meter verified prior to the issuance of a building permit
- i. Lots greater than five (5) acres must provide verification that the water distribution system is installed and ready for service in the future
- j. Utility, access, or drainage easements should not divide a lot

- 4.6.4. Planning Commission may provide exceptions to the Subdivision Design and Public Improvement Standards contained in this Section upon applicant's request due to extraordinary circumstances created by topography, floodplain, or other natural features which, should this Section be followed as written, would create an undue burden upon the applicant

4.7. Replats and Lot Splits

- 4.7.1. Any previously subdivided tract(s) may be replatted after submission of a new or correct plat. Replats may be used for the following purposes:
 - a. The division of any existing lot into two or more additional lots



- b. The correction of any monument, distances, and/or bearing
- c. The addition or removal of any easement
- d. The vacation of a lot(s) from an existing subdivision
- e. The renaming of an existing plat
- f. The combination of two or more lots into fewer lots

4.7.2. All replats shall contain the title: Replat followed by the original title of the plat and prepare the instrument per instructions from the zoning staff

4.7.3. *Replats of subdivisions filed in the Register of Deeds Office prior to January 1, 2012, that divide individual lots into not more than two parts shall not be subject to Article 4.5.3 above, but shall be subject to all other relevant sections of these regulations.*

4.7.4. *Replats that divide individual lots into more than two parts shall be subject to all requirements of these regulations including those in Article 4.5 above.*

4.7.5. Owners of any existing platted lot may divide such lots into no more than two parts without recourse to a formal re-plat. Once a lot is split, it may not again be divided without re-platting. The resulting lots must conform in all aspects to the current district regulations. When applicable, the sanitarian must approve the lot split after an environmental evaluation.

4.7.6. Lot splits are not permitted when easements of any type are to be created, conveyed, or extinguished, or a new public street is to be created.

4.8. Conflicting Requirements

- 4.8.1. Standards that appear on a plat (such as building setbacks), that are greater than those imposed by these regulations, are assumed valid and shall be duly noted and enforced
- 4.8.2. Restrictive covenants are private instruments between buyer and seller. The Office of Planning and Development does not enforce restrictive covenants unless such restrictions are part of a Planned Unit Development that specifies certain contractual obligations through a developer agreement, or unless the County itself, as a condition of platting, is a part to such agreements.



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5. Agricultural Districts

5.1. A1 – Agricultural District

- 5.1.1. The A1 – Agricultural District is intended to conserve rural character and promote the preservation of productive agricultural land, contribute to the safe, convenient, and efficient conduct of farming, support the social and economic convenience of the farm family, lessen the conflict between urban development and agriculture, and allow certain uses convenient to and appropriate for the agricultural community.
- 5.1.2. This zone is an exclusive use district that does not impose regulations, except for FEMA Flood Plain regulations, building setback requirements, and sanitary regulations on any building, structure or use that has an agricultural purpose as defined in the General Statutes of Kansas.
- 5.1.3. Exclusive, Non-Regulated Uses
 - a. Agricultural uses including farming, animal husbandry, poultry, and other livestock
 - b. breeding and keeping of farm stock animals
 - c. Silviculture
 - d. Viticulture
 - e. Fish, shellfish, or amphibian breeding facilities
 - f. Commercial gardening, orchards, beekeeping, and the sale of seed or food products grown in agricultural districts
 - g. Greenhouses and botanical gardens
 - h. Dwelling unit(s) for the main farm family and for employees and other members of the farming unit
 - i. Private hunting and fishing preserves and controlled shooting areas
 - j. Leased recreation lands for hunting and fishing with a lodge and/or cabin for temporary stays
 - k. Related accessory uses
- 5.1.4. Permitted, non-agricultural uses
 - a. Non-farm dwelling units, including residential designed manufactured housing and tiny homes. Manufactured housing that is not classified as residential design is permitted if the unit is no more than five (5) years old at the time of application and the land is not planned for residential use
 - b. Accessory buildings
 - c. Riding academies, private and commercial stables
 - d. Archery facilities
 - e. Veterinary and veterinary supplies
 - f. Private or public parks, cemeteries, libraries, municipal or township sponsored buildings or meeting halls



- g. Exploration/ extraction of oil and natural gas
- h. Microenterprise
- i. Daycare homes and group daycare homes
- m. Group homes for the disabled
- n. Offices and accessory uses for Public Water Service District/ sewer districts, Soil Conservation Service offices, Pottawatomie County office, the State of Kansas Offices, and Federal government offices
- o. Roadside stands for the sale of produce and farmers markets
- p. Places of worship and their accessory dwellings
- q. Museums, historical society facilities including accessory storage
- r. Dwelling units for caretakers and the care of the elderly or disabled subject to the following conditions:
 - 1. A non-residential manufactured home may be used if the area is not planned for residential use and the home is less than five (5) years old at the time of application
 - 2. The home is not used for generally renter-occupied use unless it conforms to the Accessory Dwelling Unit requirements
 - 3. The initial tract size must be five (5) acres with individual well or three (3) acres with public water (unless the sanitarian approves small tract size)
- s. Facilities for fraternal and charitable organizations, including offices, clubs, foundations, or residential facilities
- t. Sale of farm and ranch related equipment restricted to 4,500 square feet of outdoor sales area unless a variance is granted by the Board of Zoning Appeals. This does not include vehicle sales or repair. If adjacent to a off-site dwelling, side- and rear-yard screening is required. A site plan is required.
- u. Facilities for livestock and farm organizations
- v. Farm welding shop
- w. Antenna(e) mounted on existing communications towers, water towers, or existing buildings
- x. Agritourism


5.1.5. Area/Lot Requirements

- a. Agricultural uses/main farm dwellings on operating farms are exempt from area/lot requirements except for setbacks, sanitarian, and floodplain requirements
- b. On operating farms accessory dwellings for care of elderly, handicapped, employees, family or caretakers are exempt from area/lot requirements except from setbacks, floodplain, and sanitarian requirements
- c. Two, non-farm dwellings are permitted for each quarter/quarter of a section in A1 district. For the purposes of this regulation, a quarter/quarter section shall be limited to the northeast, northwest, southeast, and southwest quarter/quarters of a



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section.

- d. Generally, *tract sizes shall be a minimum of three (3) acres if rural water services are available or five (5) acres if the tract is to be served by an individual well.* The final determination of tract size is based on water availability and sanitary disposal needs as determined by the County Sanitarian. 
- e. The front yard setback shall be 40 feet from the property line. The Zoning Administrator may approve, in writing, a setback of less than 40 feet in instances where floodplain or topography make the setback impractical.
- f. All other setbacks shall be 14 feet from the property line.

5.1.6. Previously legally conforming uses

- a. These regulations establish new building, yard, setback, and lot size requirements that are not compatible with previous regulations. The Zoning Administrator, with due care for density and sanitation requirements, may issue building permits to new uses on lots of record within the A1 district by using area requirements contained in the 1980 Zoning Ordinance. Building permits for additions or accessories to existing uses (if in compliance with all regulations at the time of the adoption of these regulations) may be issued by the Zoning Administrator with due regard for health and sanitation requirements.

5.1.7. *Determination of an Agricultural Use*

- a. *A determination of an agricultural use shall be issued by the Zoning Administrator according to the below criteria. Any applicant who wishes to appeal the Zoning Administrator's determination may do so by appealing to the Board of Zoning Appeals*
- b. *If a tract is greater than 40 acres or consists of an original quarter of a quarter section, an exemption shall be granted for an agricultural use or agricultural building*
- c. *If a tract is less than 40 acres and does not consist of an original quarter of a quarter section, the following criteria shall be used to determine an an exempt agricultural use or building:* 
 - 1. *A Schedule F, Profit or Loss from Farming, has been filed with the Internal Revenue Service for the preceding year, or*
 - 2. *If a Schedule F has not been filed, the Applicant must submit an approved business plan, approved loan from a lending institution or similar documentation demonstrating the Applicant's significant investment in the agricultural operation, and the amount of land constituting the agricultural operation must be at least five (5) acres.*

5.2. A2 – Rural Center District

- 5.2.1. The purpose of the A2 - Rural Center district is to allow the small far cluster communities and the unincorporated centers to continue as places for residences, commercial sales, and community convenience. The use of the A2 - Rural Center district is limited to the unincorporated areas of Duluth, Fostoria, Blaine, LaCleda, and St Clere.
- 5.2.2. Permitted Uses
 - a. Single-family residential units including single-wide mobile homes that are five (5) years old or newer at the time of the permit application



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Table 5.1

Lot Size	
Type	Area
Rural w/ Well	5 acres
Rural w/ central water	Determined by County Sanitarian
Height	
Type	Limit
Rural	Two-Stories
Urban	Two-Stories
Setbacks	
Type	Setback
County Road	40 feet
Internal Street	25 feet
Side Yard	14 feet
Rear Yard	14 feet
Note: Individual plats may have different setback requirements. Always check with the Office of Planning and Development to confirm setbacks	

- b. Two- and three-family units
- c. Multi-family units if public sewer is available
- d. Licensed home and group home daycare
- e. Microenterprise

5.2.3. Area and Setback requirements

- a. Lot sizes in the historic unincorporated communities are often small and pose numerous practical difficulties. The Zoning Administrator may issue a building permit to a lot of record if the minimum sanitary regulations can be satisfied
- b. No permit shall be issued that would create a side yard less than three (3) feet or a front yard less than eight (8) feet

5.3. AB – Ag-Business

- 5.3.1. The purpose of the AB – Ag-Business district is to allow a variety of agricultural, general commercial, service business, and facilities on scattered tracts to serve the farm community and rural neighborhoods

5.3.2. Permitted uses

- a. Retail and wholesale of farm related products including fuels, seed, grain, fertilizer, and chemicals and similar facilities
- b. Agri-processing and/or sales and/or storage, including, but not limited to chemical and fertilizer processing and storage, seed processing and sales
- c. Commercial dehydrators, grain elevators, livestock sale facilities located 1,500 feet or more from the nearest off-site residence not owned by the operator. A site plan is required
- d. Offices and related activities for service of the farm community
- e. Farm implement, trucks, ATV, motorcycle sales, service, and repair, but this does not include auto-body repair
- f. Agricultural research and experiment facilities
- g. Commodity and bulk warehousing
- h. Veterinary clinics and animal boarding relating to such
- i. Accessory dwelling units
- j. Machinery and equipment rentals
- k. Self-storage facilities limited to no more than three (3) buildings and no more than 60 storage bays
- l. Construction offices and equipment storage
- m. Sale and/or storage of bulk fuels with an accessory office
- n. Convenience centers and stores
- o. Limited mixed use options of permitted uses in this section limited to no more than three (3) buildings per tract
- p. Repair and service of electrical equipment
- q. Nurseries, florists



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- r. Food service and/or restaurants in conjunction with permitted uses only
- s. Artisan manufacturing
- t. Reasonable accessory uses

5.3.3. Appearance and Property Conditions

- a. Scrap materials, non-operative motor vehicles or machinery, disassembled machinery, debris, construction materials or equipment, and use machinery parts must be stored within a defined area behind a screening fence. At a minimum, the screen must be a solid wood or slat-filled metal fence, and may also consist of shrubbery and tress, berms, or any combination
- b. All parking, drives, and entrances shall be surfaced with asphalt, concrete, or crushed gravel, except that parking lots located in the rear yard of the principal structure used exclusively for the storage of vehicles, or for remote, reserve parking may use recycled asphalt or compacted earth
- c. All parking and/or paved spaces must be separated from the paved/graveled portion of the right-of-way by a seeded or planted landscape area no less than eight (8) feet in width approved by Planning Commission
- d. All entrances to the public right-of-way shall maintain a clear vision triangle calculated 45 degrees either direction measured 20 feet from the point of intersection to the delineated stop line
- e. All outdoor lighting must be shielded and focused to direct light onto the premises and away from adjoining residential properties
- f. Multiple commercial structures are allowed on a single lot. Setbacks must be maintained to anticipate future lot splits
- g. Multiple permitted uses may be located in a single structure
- h. Unless approved by Planning Commission uses abutting a residence other than that owned by the operator, shall erect a solid, wood perimeter fence no less than eight (8) feet in height in the side or rear yard if the residence is 150 feet or closer to the property line
- i. All uses shall comply with all applicable standards related to access and accommodation for the disabled. All facilities, except for those having no employees and are not open to the public shall provide at least one unisex handicapped restroom facility unless a "no public restroom available" sign is posted

5.3.4. Area and Setbacks

- a. See generally, Table 5.1
- b. Lot sizes for lots outside of a sewer district in the AB district shall be established according to the determination of the County Sanitarian. Generally, lot size and area requirements are given on a sliding scale basis. The final determination of lot size is based on water availability, sanitary disposal needs, parking, and use separation standards. Therefore, all requirements shown are minimum standards and do not reflect specific differences between individual lots.

5.4. Planned Unit Rural Districts

- 5.4.1. The purpose of the PURD is to allow flexible control over rural areas



where traditional zoning does not offer suitable safeguards for protecting natural and agricultural resources, and for reducing conflict between community development and the agricultural industry.

- 5.4.2. The PURD is a mixed-use zone. The following districts may be used in the design of this district:
 - a. A1 – Agriculture
 - b. AB – Ag-Business
 - c. AR – Ag-Residential
 - d. CN – Commercial Neighborhood
 - e. Conditional uses permitted in each district
- 5.4.3. The PURD is a floating zone technique that is potentially compatible within all agricultural lands, but is only designated upon request by an applicant and/or recommendation by the Planning Commission. The PURD combines zoning and land development into one procedure
- 5.4.4. Prior to a formal application, applicant shall schedule a pre-development conference with the Planning Staff and shall present a concept plan as defined in Section 4.3 of these regulations
- 5.4.5. The application for a PURD shall contain the following information:
 - a. The name and address of applicant
 - b. A legal description of the property
 - c. A preliminary plat that complies with Section 4.3 of these regulations
 - d. A preliminary plan that identifies proposed uses, density, open space, water and sewer services, schedule of development, and covenants, if required
- 5.4.6. Upon determination by Staff that the application is sufficient, a hearing shall be scheduled with the Planning Commission at the next available meeting. The hearing shall follow the same procedures and policies as determined in Sections 3.1.6 and 3.1.7 of these regulations
- 5.4.7. If the proposal is approved by the Board of County Commissioners, Applicant may proceed with the regular Final Plat process provided that:
 - a. The final plat does not alter the proposed land uses
 - b. The final plat conforms substantially to the lot and street layout
 - c. The final plat conforms with all requirements in Section 4.3 of these regulations
- 5.4.8. Standards and Design Requirements of a PURD
 - a. The PURD shall not substantially affect the use, value, or enjoyment of nearby property
 - b. Conditions shall be used to lessen the impact of the use of nearby property where a potential conflict exists and to limit the use to which the property may be developed
 - c. The location of the PURD shall be dependent upon local



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conditions, sanitation capabilities, and adequate transportation facilities.

- d. The Planning Commission may specify that the applicant is responsible for screening, easement, open space, and other considerations
- e. Unless otherwise indicated in the development plan, non-residential uses shall be located at least 200 from the nearest single-family residential structure
- f. The entire PURD shall be held in a single ownership or in a corporation at the time of application
- g. The Planning Commission may designate certain geographic units or phases within the PURD that may be developed in stages over reasonable periods of time as specified in a developer's agreement.
- h. Lot sizes shall be determined by the County Sanitarian unless water service is provided by a well in which case the minimum lot size shall be five (5) acres
- i. General subdivision design and layout requirements spelled out in [Section 4.6](#) of these regulations shall be followed for all PURDs

5.4.9. Variation of Standards

- a. The plans and specifications governing streets, widths, lots, areas, sanitary systems, and other facilities may be set at a greater or lesser standard than is provided for in the baseline requirements of these regulations by the Planning Commission when it is in the general interest and advances public welfare

5.5. AR – Ag-Residential

- 5.5.1. The purpose of the AR District is to provide low density residential opportunities in areas of marginal agricultural productivity. These districts also offer opportunities for limited livestock, agricultural-style accessory buildings, home occupations, and limited commercial opportunities.

5.5.2. Permitted Uses

- a. Single-family detached residences and residential design manufactured homes not less than 22 feet wide.
- b. Accessory structures such as utility sheds, barns, or stables
- c. A small wind turbine provided that the lot size is greater than two (2) acres and the turbine is setback at least 50 feet from any lot line
- d. Places of Worship
- e. Licensed and residential daycare
- f. Parks, playgrounds, and recreation facilities
- g. Nurseries and greenhouses, but this does not include commercial greenhouses
- h. Limited livestock
- i. Microenterprise

5.5.3. Special District Regulations

Table 5.2

Lot Size	
Type	Area
Rural w/ Well	5 acres
Rural w/ central water	Determined by County Sanitarian
Height	
Type	Limit
Rural	Two-Stories
Urban	Two-Stories
Setbacks	
Type	Setback
County Road	40 feet
Internal Street	25 feet
Side Yard	14 feet
Rear Yard	14 feet
Note: Individual plats may have different setback requirements. Always check with the Office of Planning and Development to confirm setbacks	

Table 5.3

Animal	Required Acreage
Horse	2
Cow	2
Sheep	0.5
Goat	0.5
Llama	0.5
Alpaca	0.5
Pig	0.5



- a. Small quantities of livestock and fowl are permitted in the AR district for show, pleasure, and care, but not breeding purposes beyond the occasional normal offspring.
- b. Large animals (horses, cattle, goats, sheep, etc) must be harbored on lots of five (5) acres or more. Table 5.2 may be used as a guide to determine the number of animals permitted on a given lot.
- c. Vehicles use for a commercial purpose in excess of one and on-half (1 ½) ton shall be parked/stored in an enclosed building or behind an attractive opaque screening fence constructed from good quality wood, masonry, or manufactured fencing materials, and entirely screened from the view of neighboring residences. Overnight parking for tractor/trailer transports is prohibited





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Unified Development Regulations

6. Residential Districts

6.1. R1 – Low-Density Residential District

- 6.1.1. The purpose of the R1 district is to provide low to moderate density, single-family residential neighborhoods. The R1 district is designed to preserve open space and provide for compatible private and public facilities.
- 6.1.2. All main and accessory buildings used in the R1 zone shall incorporate a residential-type design. This design requirement extends to all aspects of buildings, including structures used for churches, public facilities, accessories, fences, offices, and any other permitted non-residential use.
- 6.1.3. Residential design may vary, but at a minimum, it must include a pitched roof, or a partial pitch on a portion of the building which gives the appearance of a pitch, framed windows, dust free parking areas, low lighting intensities, and no outside storage of extraneous materials, or parking farm vehicles, commercial transport, or construction equipment.
- 6.1.4. Permitted Uses
- Single-family detached dwellings, including residential designed modular homes
 - Accessory buildings
 - Non-commercial greenhouses and their accessory uses
 - Places of worship and their customary accessory uses
 - Licensed and group daycare
 - Microenterprise 
 - Public facilities
 - Non-profit offices
 - Temporary buildings used as storage or offices for construction
 - A single, small wind energy turbine located on lots of two (2) acres or larger provided that the turbine is sited at least (REVIEW)
 - Limited number of a fowl for show, pleasure, or care, but this shall not include fowl raised for breeding purposes, or any roosters or other crowing fowl such as peacocks. 
- 6.1.5. Area and Bulk Requirements
- See Table 6.1

6.2. R2 – Intermediate-Density Residential District


- 6.2.1. The purpose of the R2 district is to provide low to medium density residential opportunities in areas with urban levels of infrastructure
- 6.2.2. Permitted Uses
- Uses permitted by right in the R1 zoning district
 - Dwellings, up to four units per structure (does not include mobile homes or Type 1 dwelling units) 

Table 6.1

Lot Size	
Type	Area
Rural w/ Well	5 acres
Rural w/ central water	Determined by County Sanitarian
Urban	5,000 sq ft
Height	
Type	Limit
Rural	Two Stories
Urban	Two Stories
Setbacks	
Type	Setback
County Road	40 feet
Internal Street	25 feet
Side Yard	8 feet
Rear Yard	8 feet
Note: Individual plats may have different setback requirements. Always check with the Office of Planning and Development to confirm setbacks	



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Table 6.2

Lot Size	
Type	Area
Rural w/ Well	5 acres
Rural w/ central water	Determined by County Sanitarian
Urban	5,000 sq ft
Height	
Type	Limit
Rural	Two Stories
Urban	Two Stories
Setbacks	
Type	Setback
County Road	40 feet
Internal Street	25 feet
Side Yard	8 feet
Rear Yard	8 feet
Note: Individual plats may have different setback requirements. Always check with the Office of Planning and Development to confirm setbacks	

Table 6.3

Lot Size	
Type	Area
Urban	By Review
Height	
Type	Limit
Urban	Three Stories
Setbacks	
Type	Setback
County Road	40 feet
Internal Street	25 feet
Side Yard	8 feet
Rear Yard	8 feet
Note: Individual plats may have different setback requirements. Always check with the Office of Planning and Development to confirm setbacks	

c. Nursing homes; assisted living facilities

6.2.3. Area and Bulk Requirements

a. See Table 6.2

6.3. R3 – High-Density Residential District

6.3.1. The purpose of the R3 district is to allow moderate to high density units and mixed-use developments in areas with urban levels of infrastructure

6.3.2. Permitted Uses

a. *Dwellings, three units or more per structure (does not include mobile homes or Type 1 dwelling units)*

b. Nursing facilities and elderly care homes

c. Group care facilities

d. Recreational facilities

e. Boarding facilities

f. All child care facilities

6.3.3. Area and Bulk Requirements

a. See Table 6.3

6.4. PUD – Planned Unit Development

6.4.1. Planned Unit Developments are intended to encourage creative and efficient use of land, infrastructure, and natural resources. Specifically, the goals of a PUD are to:

a. Provide a mixture of compatible housing types and land uses in close proximity to each other

b. Protect and preserve natural and historic resources

c. Facilitate economical and efficient use of public utilities

d. Allow flexible uses that typical single-use zoning districts may not allow

6.4.2. Permitted Uses

a. All private and public institutional facilities

b. All residential uses permitted by right or exception in this ordinance

c. Uses permitted in R1, R2, R3

d. CN Commercial and office uses

e. Mixed-use buildings

f. Athletic fields, parks, libraries

6.4.3. Subdivision Process and Design Guidelines

a. All PUD districts shall be four (4) acres or more

b. PUDs shall follow the typical subdivision process as articulated in Article 4.2 of these regulations



Unified Development Regulations

- c. PUDs shall follow the design standards for urban subdivisions as articulated in [Article 4.6](#) of these regulations. Alternative design guidelines may be issued by the County Planner or Planning Commission in order to more broadly conform to the purposes and goals of Planned Unit Developments
- d. PUDs shall be connected to public sewer and water facilities unless Planning Commission grants an exception in order to more broadly conform to the purposes and goals of Planned Unit Developments
- e. For PUDs that have been granted an exception to 6.4.3.d above, lot sizes must be approved by the County Sanitarian and the Applicant shall follow the design standards for rural subdivisions
- f. Permitted uses within a PUD must be consistent with County adopted land use plans

6.4.4. Area and Bulk Requirements

- a. Building heights are limited to 37 feet from the lowest point adjacent to the building to the eve of the roof
- b. Maximum and minimum setbacks are determined in the preliminary plan, but shall take into account urban form, compatibility with surrounding uses, placement of utilities, and public health and safety.

6.4.5. Special Provisions

- a. All PUDs shall maintain common open space facilities, or any other areas which are to be held in common by the residents or occupants. All such areas shall be clearly marked on the development plan

6.4.6. Applications for a PUD shall contain the following information:

- 1. The name and address of applicant
- 2. A legal description of the property
- 3. A preliminary plat that complies with [Section 4.3](#) of these regulations
- 4. A preliminary plan that identifies proposed uses, density, open space, water and sewer services, schedule of development, and covenants, if required

6.4.7. Upon determination by Staff that the application is sufficient, a hearing shall be scheduled with the Planning Commission at the next available meeting. The hearing shall follow the same procedures and policies as determined in [Sections 3.1.6](#) and [3.1.7](#) of these regulations

6.4.8. Final Plat

- a. Following the approval of the PUD, the Applicant may submit a final plat that conforms to the technical requirements of [Section 4.3](#) of these regulations
- b. A final plat may not vary from the terms of the approved PUD unless approved by Planning Commission. Changes in approved land uses from a more restrictive land use to less restrictive land use according to Table 13.1 shall require an amendment to the approved PUD and a public hearing.



6.5. MH – Manufactured Home District



Unified Development Regulations

- 6.5.1. The purpose of the MH district is to provide a planned community setting for single-family dwelling units in a moderate to high density environment
- 6.5.2. It shall be unlawful for any person to construct, alter, or extend a manufactured home park unless the owner holds a valid permit and site plan approval.
- 6.5.3. Permitted Uses
- Manufactured homes, either single, double-wide, or *tiny homes*, but this shall not be construed as a motorized recreation vehicle.
 - Site-built single-family residential units
 - Accessory units to the mobile home such as storage buildings and expansion devices
 - Buildings and structures used for storm shelters community buildings, self-storage areas and buildings, laundry, garages, and similar uses
 - Retail and personal services for the convenience of the park residents
 - Licensed day care and group day care
- 6.5.4. Location and Environmental Requirements
- The manufactured home park shall be located on a well-drained, properly graded site
 - Parks designed to accommodate 25 or more units shall be located on a continuously paved County road
 - Parks shall provide screening when they abut land used for residential purposes
- 6.5.5. Application Requirements
- All studies required in 4.4 of these Regulations*
 - A site plan that details the road system, arrangement of lots and park facilities, topography, drainage, general site conditions, landscaping and/or screening, *utility connections including propane tank locations*
 - All parks shall provide a storm shelter(s) for the occupants. The shelter plans will be reviewed by the County Planner. Design specifications shall be guided by the ANSI or the Federal Emergency Management Agency, and must be located centrally to maximize resident access. Access to the shelter must be clearly marked. The Pottawatomie County Director Emergency Management shall recommend the type of storm warning device to placed in the park.
 - Each park shall reserve an area for passive or active recreation according equal to at least 100 square feet per proposed unit.*
- 6.5.6. Lot Size and Area Requirements
- Manufactured home parks may employ flexible design methods to match local needs to density requirements in Table 6.4 must be used in development site plans unless waived by the Planning Commission
- 6.5.7. Accessory structures such as porches, garages, carports, etc may

Table 6.4

Setbacks	
Type	Setback
Between units (rear)	13 feet
Between units (side)	18 feet
To curb	22 feet
Accessory structures	6 feet
Note: Individual plats may have different setback requirements. Always check with the Office of Planning and Development to confirm setbacks	



Unified Development Regulations

be used. Accessory storage buildings are limited to 120 square feet per manufactured home, *unless approved by park management*. Storage or shipping containers, trailers, open pole sheds, and similar structures are not permitted

6.5.8. Access, Streets, and Parking

- a. All mobile home parks shall be provided with safe and convenient vehicular access extending to every lot. All road surfaces shall be concrete or asphalt
- b. All streets are the responsibility of the park owner, and shall remain private ownership
- c. Each lot shall be provided with two (2) off-street parking stalls.
- d. All parks shall provide street lighting at such heights and spacing as will provide acceptable levels of illumination for the safe movement of pedestrians and vehicles at night.

6.5.9. Park Services and Facilities

- a. All parks using natural gas shall be equipped with an approved manual and breakaway connections with an automatic shutoff valve installed upstream of the gas outlet
- b. All parks using liquefied gas systems shall be provided with safety devices to relieve excessive pressure; all storage bottles or tanks shall be fastened to prevent accidental overturning. No LNG vessel shall be stored underneath a mobile home.
- c. Parks shall be connected to a Public Water Distribution System
- d. An adequate and environmentally safe sewer system shall be installed in each park. The system shall be designed according to Kansas Department of Health and Environment regulations and approved by the County Sanitarian
- e. Each unit in the park shall be provided with a disconnecting device and over-current protective equipment that meets all National Electric Code standards

6.5.10. Individual Mobile Home Lot Requirements

- a. Each unit shall be anchored to a pad, piers, or the ground according to Kansas Department of Health and Environment regulations
- b. Each shall be skirted with a commercial or custom made kit available for such purposes.

6.5.11. Park Management Responsibilities

- a. Notify all park occupants of the rules and regulations
- b. Comply with all rules and regulations governing mobile home parks
- c. Provide for the required storm shelter and to maintain such structure in good condition, free from pests, and to assure that it is open and accessible to the residents
- d. Maintain a register of all current residents identified by lot number
- e. Prominently display addresses by each home
- f. Notification, in writing to the Zoning Administrator, and



individual violations of these regulations

6.5.12. Resident Responsibilities

- a. Maintain lots in good order, free from debris, inoperative machines or vehicles
- b. Refrain from parking on internal streets
- c. Abide by park management rules

6.5.13. Licensing

- a. Hereafter, it shall be unlawful for any person or firm to operate a manufactured home park unless a valid permit has been issued annually by the Zoning Administrator. The fee for such permit is published in the Schedule of Fees by the Board of County Commissioners
- b. The charge for a late application for a license (25 days or more after the annual license is due) shall be an additional \$25.00.
- c. The Zoning Administrator shall refuse to issue a license to a park which is in violation of these regulations (except for previously legally conforming uses). The reason for the refusal shall be put in writing and set to the park owner and operator.
- d. The owner/operator shall have 60 days to either appeal to the Board of Zoning Appeals or comply with the order of the Zoning Administrator. If the violations are not resolved at the 60-day period, the Zoning Administrator shall seek a court order restraining the owner/operator from further operation of the park.
- e. The Zoning Administrator is hereby empowered to make such inspections as necessary to enforce these regulations at reasonable ours without prior notice to the park owner/operator.

6.5.14. Appeals to the Board of Zoning Appeals

- a. The Board of Zoning Appeals is hereby empowered to hear appeals from and grant exceptions to owners of manufactured home parks which have been refused a license by the Zoning Administrator. The Board of Zoning Appeals may uphold, reverse, modify or grant exceptions to the ruling of the Zoning Administrator for the following reasons
 1. The requested modification does not in any way endanger the health, safety, or welfare of the park residents or neighbors
 2. The requested modification must arise from a physical necessity and must constitute a hardship greater than a mere inconvenience to the owner.
 3. All applications to the Board of Zoning Appeals shall be made in writing and set forth the reasons why the requested modification or exception is necessary.

6.5.15. Special Requirements and Regulations

- a. All Manufactured Home Parks shall be platted as a single, distinct lot or tract and continue to be held as a single ownership
- b. All Parks shall be constructed with, and continue to remain under, unified street systems, utilities, and recreation areas.




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6.6. Appearance and Design Requirements in Residential Areas

- 6.6.1. All home occupations, permitted business activities, services, storage, and sales shall be conducted inside the dwelling unit or a permitted accessory building
- 6.6.2. Accessory structures and buildings used for storage shall be specifically designed or constructed to maintain a residential appearance and shall not include storage pods, railroad cars, transport trailers, enclosed trailers, or similar structures
- 6.6.3. Such items as inoperable motor vehicles, salvage, building materials, disassembled or heavy equipment, scrap metals, wire, poles, or household appliances, and similar components shall not be openly stored on property zoned for residential purposes. All such material must be stored within an enclosed building.
- 6.6.4. Screening devices or screened areas in residential districts shall be constructed from masonry, wood, or manufactured composite materials (fabricated to imitate customary residential materials)
- 6.6.5. Decorative, safety, or security fences in residential districts shall be constructed from masonry, wood, composite materials (fabricated to imitate customary residential materials) or chain link.
- 6.6.6. All accessory buildings used in the residential districts shall incorporate a residential-type design. This design requirement extends to all aspects of buildings, and includes structures used for churches, public facilities, accessory buildings, offices, and other permitted non-residential uses.
 - a. Open side and/or pole-type structures are not permitted
 - b. Hoop houses and other similar structures are not permitted

6.7. Accessory Dwelling Units

- 6.7.1. Purpose
 - a. Accessory dwelling units (ADU) is a secondary dwelling unit created on a lot with a principal single-family dwelling, and which is subordinate to the principal dwelling. ADUs may be internal to or attached to the principal dwelling, or as a detached structure. The owner(s) of the principal dwelling unit and the secondary dwelling unit must be the same. A detached ADU must not be a mobile home, motor vehicle, a towed unit customarily used for camping, or a unit requiring HUD certification. *Tiny Homes are permitted provided they are affixed to a permanent foundation.* 
- 6.7.2. Where Permitted
 - a. ADUs shall be permitted in all zoning districts that permit single-family housing by right.
 - b. No more than two (2) dwelling units, including the accessory dwelling, may be permitted on a single lot.
- 6.7.3. Construction and Design
 - a. A detached ADU shall be located a minimum of ten (10) feet from the principal dwelling, and have a front, side, and rear yard setback as required by the relevant zoning district.
 - b. An ADU shall be subordinate in size to the principal dwelling. It may be up to 800 square feet or up to 75% of the principal dwelling, whichever is less, not including a garage or other unfinished space. In addition, a detached ADU shall not occupy



more than 30% of the rear yard.

- c. A detached ADU must incorporate a residential design, and must include a pitched roof, residential-style siding and have its own connection to a sanitary sewer, or as approved by the County Sanitarian.
- d. An ADU must have all wheels removed and securely affixed to a permanent foundation.
- e. In addition to the parking required for the principal dwelling, a minimum of one (1) additional off-street parking space shall be provided on the lot for the ADU.
- f. Prior to the issuance of a building permit, the applicant shall apprise themselves of all covenants and conditions of record, and submit a plot plan and building plan to the Pottawatomie County Office of Planning and Development showing existing buildings and the proposed accessory dwelling.



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Unified Development Regulations

7. Commercial Districts

7.1. CN – Commercial Neighborhood

7.1.1. CN - Commercial Neighborhood districts are small scale commercial centers that serve the needs of surrounding neighborhoods. The CN district should be pedestrian and bicycle oriented in areas of urban-scale development, and should have a market area limited to the surrounding neighborhoods. Site plans are required for all uses.

7.1.2. Permitted Uses

a. *Food and drink services, but this does not include drive-thru facilities*

b. *Medical services, but this shall not include hospitals*

c. Personal services such as travel bureaus, laundromats, dry cleaning, studios, beauty shops, and other similar uses

d. Small scale retail businesses limited to 5,000 square feet per business

e. *Artisan manufacturing limited to 5,000 square feet of production space*

f. Convenience stores, bodegas, grocery stores, limited to 5,000 square feet

g. Gas stations

h. Child and elder care facilities

i. Small-animal veterinary clinics

j. Nursery and garden sales

k. Offices

l. Banks and other financial services

m. Houses of worship

n. *Accessory dwelling units*

o. Emergency shelters

7.1.3. Area and Bulk Requirements

a. See table 7.1

7.2. CH – Commercial Highway

7.2.1. The purpose of the Commercial Highway district is to provide a wide range of commercial activities along major transportation corridors. The district is primarily for motor vehicle traffic, and uses within the district are intended to draw from a regional market along major thoroughfares

7.2.2. Permitted Uses

a. *All uses permitted in CN (no size limitations on uses)*

b. Car washes

Table 7.1

Lot Size	
Type	Area
Rural w/ Well	5 acres
Rural w/ central water	Determined by County Sanitarian
Urban	By Review
Height	
Type	Limit
Rural	One Story
Urban	Two Stories
Setbacks	
Type	Setback
County Road	40 feet
Internal Street	25 feet
Side Yard	10 feet
Rear Yard	10 feet
Note: Individual plats may have different setback requirements. Always check with the Office of Planning and Development to confirm setbacks	



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- c. Hardware stores and lumberyards
- d. Drive-thru facilities
- e. Outpatient care facilities, hospitals
- f. Hotels and motels
- g. Commercial and educational uses
- h. Commercial meeting facilities
- i. Training and convention centers
- j. Large animal veterinary clinics

k. New and used automotive, recreational vehicles sales, and motorcycle sales and repair

l. Entertainment and amusement facilities (does not include sexually oriented businesses)

m. Research facilities

n. Funeral or mortuary facilities

o. Broadcast studios

p. Commercial parking lots

7.2.3. Area and Bulk Requirements

- a. See table 7.2

7.3. CS – Commercial Services

7.3.1. The purpose of the Commercial Services District is to provide commercial uses that provide services to automobiles, construction, trades, and other similar uses that may require access to main thoroughfares, but should be located away from residential uses or have adequate buffers in place.

7.3.2. Permitted Uses

a. All uses permitted in CH

- b. Rental equipment
- c. Appliance repair
- d. General and trade contractors offices, shops, yards
- e. Auto-body repair
- f. Construction offices, shops, and yards
- g. Sale of construction equipment
- h. Sale of farm and animal related supplies and equipment
- i. Storage units and rental storage

7.3.3. Area and Bulk Requirements

- a. See table 7.3

7.4. PCD – Planned Commercial Development

Table 7.2

Lot Size	
Type	Area
Rural w/ Well	5 acres
Rural w/ central water	Determined by County Sanitarian
Urban	By Review
Height	
Type	Limit
Rural	Two Stories
Urban	Three Stories
Setbacks	
Type	Setback
County Road	40 feet
Internal Street	25 feet
Side Yard	10 feet
Rear Yard	10 feet
Note: Individual plats may have different setback requirements. Always check with the Office of Planning and Development to confirm setbacks	



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- 7.4.1. Planned Commercial Developments are intended to encourage create and efficient use of land, infrastructure, and natural resources. Specifically, the goals of a PCD are to:
- Provide a mixture of uses, but with commercial uses being the dominate use
 - Permit flexible design and regulatory control
- 7.4.2. Permitted Uses
- All permitted uses in CN, CH, and CS
 - Mixed Uses
 - Residential uses are normally limited to second story, or higher, locations, but may included limited stand-alone single-family or multi-family units
- 7.4.3. Subdivision Process and Design Guidelines
- All PCD districts shall be four (4) acres or more
 - PCDs shall follow the typical subdivision process as articulated in Article 4.2 of these regulations
 - PCDs shall follow the design standards for urban subdivisions as articulated in Article 4.6 of these regulations. Alternative design guidelines may be issued by the County Planner or Planning Commission in order to more broadly conform to the purposes and goals of Planned Commercial Developments
 - PCDs shall be connected to public sewer and water facilities unless Planning Commission grants an exception in order to more broadly conform to the purposes and goals of Planned Commercial Developments
 - For PCDs that have been granted an exception to 6.4.3.d above, lot sizes must be approved by the County Sanitarian and the Applicant shall follow the design standards for rural subdivisions
 - Permitted uses within a PCD must be consistent with County adopted land use plans
- 7.4.4. Area and Bulk Requirements
- Building heights are limited to 37 feet from the lowest point adjacent to the building to the eve of the roof
 - Maximum and minimum setbacks are determined in the preliminary plan, but shall take into account urban form, compatibility with surrounding uses, placement of utilities, and public health and safety.
- 7.4.5. Applications for a PCD shall contain the following information:
- The name and address of applicant
 - A legal description of the property
 - A preliminary plat that complies with Section 4.3 of these regulations
 - A preliminary plan that identifies proposed uses, density, open space, water and sewer services, schedule of development, and covenants, if required

Table 7.3

Lot Size	
Type	Area
Rural w/ Well	5 acres
Rural w/ central water	Determined by County Sanitarian
Urban	By Review
Height	
Type	Limit
Rural	Two Stories
Urban	Three Stories
Setbacks	
Type	Setback
County Road	40 feet
Internal Street	25 feet
Side Yard	10 feet
Rear Yard	10 feet
Note: Individual plats may have different setback requirements. Always check with the Office of Planning and Development to confirm setbacks	



- 7.4.6. Upon determination by Staff that the application is sufficient, a hearing shall be scheduled with the Planning Commission at the next available meeting. The hearing shall follow the same procedures and policies as determined in [Sections 3.1.6](#) and [3.1.7](#) of these regulations
- 7.4.7. Final Plat
 - a. Following the approval of the PCD, the Applicant may submit a final plat that conforms to the technical requirements of [Section 4.3](#) of these regulations
 - b. Changes in approved land uses from a more restrictive land use to less restrictive land use according to Table 13.1 shall require an amendment to the approved PUD and a public hearing.*

7.5. Appearance and Design Requirements

- 7.5.1. Appearance and Design Requirements
 - a. All parking, drives, and entrances shall be surfaced with asphalt or concrete except that parking lots located in the rear of the building and used exclusively for the storage of vehicles or remote, overflow parking may use recycled asphalt or gravel on compacted earth
 - b. All parking and/or paved spaces must be separated from the paved portion of the right-of-way by a seeded or planted landscape area of no less than eight (8) feet in width unless modified by a site plan or unless angled on-street parking is permitted
 - c. All entrances to the public right-of-way shall maintain a clear vision triangle calculated 45 degrees either direction measured 20 feet from the point of the intersection to the delineated stop line.
 - d. Loudspeakers or other such advertising devices such as strings of lights, balloons, portable signs, or search lights may not be used except by a temporary permit for a maximum of 30 consecutive days in any one year period.
 - e. All outdoor lighting must be shielded and focused to direct light onto the premises and away from adjoining residential properties
 - f. Multiple primary structures are permitted on a single lot. Structures must be able to meet all area and bulk requirements
 - g. Multiple permitted uses are allowed within a single structure
 - h. Uses shall comply with all applicable standards related to access and accommodation for the disabled. All facilities, except those having no workforce, shall provide at least one unisex, handicapped toilet facility unless posted "no public restrooms available".
 - i. Buildings shall be compatible with the surrounding neighborhood. Hoop houses, portable buildings, and other similar buildings and materials are not permitted.
 - j. In areas adjacent to tracts zoned or planned for residential, an eight foot solid wood fence, or comparable natural screening shall be erected as buffer.
 - k. Loading bays and/or docks must be located to the rear or side of all principal or accessory buildings.



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- I. Outside storage of materials must be stored within a defined area behind approved screening. Screening may include a solid wooden or slat-filled metal fence, trees, shrubbery, berms, or a combination of these methods

m. Metal buildings may be prohibited in order to maintain compatibility with existing nearby structures. However, in all cases, metal buildings shall have a decorative material on at least 30 percent of all outer walls that face public rights-of-way. This material may include brick, stone, or other material that effectively hides the metal siding.



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8. Manufacturing Districts

8.1. MEP – Employment Park District

- 8.1.1. The employment park district is intended to provide space for industrial production, fabrication, assembly, office, research, experimental facilities, and limited retail in enclosed buildings with attractive and well-planned surroundings.
- 8.1.2. Permitted Uses
 - a. Warehousing
 - b. Mailing, packaging, and parcel services
 - c. Shipping facilities
 - d. Wholesales
 - e. General or Trade Contracting offices, and associated uses
 - f. Printing
 - g. Uses permitted or conditional in Commercial Highway
- 8.1.3. Subdivision Process and Design Guidelines
 - a. All MEP districts shall be four (4) acres or more
 - b. MEPs shall follow the typical subdivision process as articulated in Article 4.2 of these regulations
 - c. MEPs shall follow the design standards for urban subdivisions as articulated in Article 4.6 of these regulations. Alternative design guidelines may be issued by the County Planner or Planning Commission in order to more broadly conform to the purposes and goals of Employment Parks
 - d. MEPs shall be connected to public sewer and water facilities unless Planning Commission grants an exception in order to more broadly conform to the purposes and goals of Employment Parks
 - e. For MEPs that have been granted an exception to 6.4.3.d above, lot sizes must be approved by the County Sanitarian and the Applicant shall follow the design standards for rural subdivisions
 - f. Permitted uses within a MEP must be consistent with County adopted land use plans
- 8.1.4. Area and Bulk Requirements
 - a. Building heights are limited to 37 feet from the lowest point adjacent to the building to the eve of the roof
 - b. Maximum and minimum setbacks are determined in the preliminary plan, but shall take into account urban form, compatibility with surrounding uses, placement of utilities, and public health and safety.
- 8.1.5. Appearance and Design Requirements
 - a. All parking, drives, and entrances shall be surfaced with asphalt or concrete except that parking lots located in the rear of the building and used exclusively for the storage of vehicles or



remote, overflow parking may use recycled asphalt or gravel on compacted earth

- b. All parking and/or paved spaces must be separated from the paved/graveled portion of the right-of-way by a seeded or planted landscape area of no less than eight (8) feet in width unless modified by a site plan or unless angled on-street parking is permitted
- c. All entrances to the public right-of-way shall maintain a clear vision triangle calculated 45 degrees either direction measured 20 feet from the point of the intersection to the delineated stop line.
- d. Loudspeakers or other such advertising devices such as strings of lights, balloons, portable signs, or search lights may not be used except by a temporary permit for a maximum of 30 consecutive days in any one year period.
- e. All outdoor lighting must be shielded and focused to direct light onto the premises and away from adjoining residential properties
- f. Multiple primary structures are permitted on a single lot. Structures must be able to meet all area and bulk requirements
- g. Multiple permitted uses are allowed within a single structure
- h. Buildings shall be compatible with the surrounding neighborhood. Hoop houses, portable buildings, and other similar buildings and materials are not permitted.
- i. In areas adjacent to tracts zoned or planned for residential, an eight foot solid wood fence, or comparable natural screening shall be erected as buffer.
- j. Loading bays and/or docks must be located to the rear or side of all principal or accessory buildings.
- k. Outside storage of materials must be stored within a defined area behind approved screening. Screening may include a solid wooden or slat-filled metal fence, trees, shrubbery, berms, or a combination of these methods
- l. Metal buildings may be prohibited in order to maintain compatibility with existing nearby structures. However, in all cases, metal buildings shall have a decorative material on at least 30 percent of all outer walls that face public rights-of-way. This material may include brick, stone, or other material that effectively hides the metal siding.*

8.1.6. Applications for a MEP shall contain the following information:

- 1. The name and address of applicant
- 2. A legal description of the property
- 3. A preliminary plat that complies with [Section 4.3](#) of these regulations
- 4. A preliminary plan that identifies proposed uses, density, open space, water and sewer services, schedule of development, and covenants, if required

8.1.7. Upon determination by Staff that the application is sufficient, a hearing shall be scheduled with the Planning Commission at the next available meeting. The hearing shall follow the same procedures and policies as determined in [Sections 3.1.6](#) and [3.1.7](#)



Unified Development Regulations

of these regulations


8.1.8. Final Plat

- a. Following the approval of the MEP, the Applicant may submit a final plat that conforms to the technical requirements of [Section 4.3](#) of these regulations
- b. *Changes in approved land uses from a more restrictive land use to less restrictive land use according to Table 13.1 shall require an amendment to the approved PUD and a public hearing.*

8.2. M2 – General Manufacturing

- 8.2.1. The purpose of the General Manufacturing District is to provide areas within the unincorporated County that are set aside for manufacturing that is not compatible with residential or light commercial areas. The General Manufacturing District is intended to permit all but the most intense uses.

8.2.2. Permitted Uses

- a. *Manufacturing and assembly of most goods except:* 
 1. *Petroleum products*
 2. *Cement and asphalt*
 3. *Exterminating agents, pesticides, and fertilizers, other chemicals*
 4. *Explosives*
 5. *Or other similar uses that create excessive smell, noise, or air pollution*
- b. *Animal rescue facilities*
- c. *Warehousing*
- d. *Shipping facilities*
- e. *Communication towers*
- f. *Any use permitted in [Commercial Services](#) (but does not include uses permitted in CN and CH)*

8.2.3. Area and Bulk Requirements

- a. *All setbacks, height restrictions, and lot sizes shall be determined during the normal platting process*
- b. No structure used for manufacturing or assembly shall be within 250 feet of any structure used for residential purposes other than that of the applicant

8.3. M3 – Heavy Manufacturing District

- 8.3.1. The purpose of the heavy exclusive manufacturing district is to provide areas for heavy industrial uses that create significant impacts upon surrounding areas.

8.3.2. Permitted Uses

- a. *Uses permitted in the M2 district*
- b. *Landfills (all types)*



c. Recycling centers

d. Electrical power generation

e. Manufacture and assembly of the following

1. Petroleum products

2. Cement and asphalt

3. Exterminating agents, pesticides, and fertilizers

4. Explosives

d. Bulk petroleum storage

8.3.3. Area and Bulk Requirements

a. All setbacks, height restrictions, and lot sizes shall be determined during the normal platting process

b. No heavy manufacturing use is permitted within 500 feet of the property line of the nearest off-site residence

8.3.4. Due to the significant impacts from uses permitted in Heavy Manufacturing, the Planning Commission may require any of the following studies at the time of a rezoning request

a. Environmental impact assessment

b. Economic impact assessment

c. Other studies as required by the Planning Commission

8.4. Appearance and Design Requirements

8.4.1. Outside storage of equipment and material shall not be located in the front of buildings or along any property boundary that fronts a public right-of-way.

8.4.2. Outside storage of materials used in conjunction with salvage yards or scrap materials shall be enclosed behind an eight (8) foot screening fence.

8.4.3. Planning Commission may require additional requirements at the time of the site plan

8.4.4. All entrances to public rights-of-way shall maintain a clear vision triangle calculated 45 degrees either direction measured 20 feet from the point of intersection to the delineated stop line.





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9. Special Purpose Overlay Districts

9.1. Purpose

- 9.1.1. An overlay district is a special purpose zoning device that does not change the underlying zone requirements. Overlay districts typically carry special restrictions on use and operating guidelines designed to make activities compatible with surrounding uses of the land.
- 9.1.2. Procedure
 - a. Establishment of overlay districts shall follow the regular procedure established in Article 3.1.6

9.2. I – Institutional Overlay District

- 9.2.1. The Institutional Overlay is intended to be potentially compatible with a wide range of developed or agricultural uses. The Planning Commission, after an adequate demonstration of need, may permit the overlay in any of the following zoning districts:
 - a. A1 - Agriculture
 - b. A2 - Rural Center
 - c. All residential districts
 - d. All commercial districts
 - e. MEP
- 9.2.2. Permitted Uses
 - a. Institutions which give group care for terminally ill patients, addiction services, developmental disabilities, and other related populations
 - b. Prisons
 - c. Religious institutions, included houses of worship
 - d. Public or private schools
 - e. Research and laboratory facilities
 - f. Retreats, resorts, or other recreational uses (including campgrounds and RV Parks) *affiliated with a club, religious organization, or public institution* 
 - g. Cemeteries
 - h. Customary accessory uses necessary to serve the principal use
 - i. Related uses
- 9.2.3. Requirements
 - a. Applicants shall submit a sketch plan to the County Planner showing all buildings, drives, parking, and other proposed features of the site
 - b. *At the discretion of the County Planner, an application may be required to conform to any or all aspects of Article 4 of these regulations based on the scale, location, and type of project proposed.* 



- c. Applicants shall include a detailed narrative on the anticipated uses of the property
- d. Planning Commission may require the Applicant to perform any studies required under the normal subdivision process
- e. Planning Commission shall *make the same findings of fact as they would under any zoning change hearing*

9.2.4. Basic Design



- a. The outdoor storage or accumulation of material is not permitted. Materials, machinery, supplies, and similar items must be stored in the interior of a building.
- b. When parking is provided in the front of a building that is adjacent to a public road, a green area of eight feet must be reserved between the surfaced parking area and the right-of-way.
- c. Buildings used for institutional purposes as an overlay in residential districts must incorporate a residential design, except that metal buildings may incorporate a color coordination scheme approved by the zoning staff.

9.3. P – Planned District

- 9.3.1. Any of the zoning districts listed in these Unified Development Regulations may be designated as a Planned District by adding thereto the designation P, such as RP1 - Planned Single-family residential. When such a designation is affixed to a district by the Planning Commission, the owner or developer of such land shall submit a site plan to the Planning Commission which must be approved by the Governing Body before the land may be developed.
- 9.3.2. The general procedures of these regulations relating to zoning amendments shall be followed in a planned district. A planned district shall provide for and encourage latitude and flexibility in the location of buildings, structures, road, drives, variations in yards and open spaces subsequent to the approval of the plan by the Planning Commission and Governing Body. The purpose is to allow development of tracts of land to their fullest extent and at the same time observe the general intent and spirit of these regulations.
- 9.3.3. All zoning districts within the planned districts shall follow the guidelines and procedures outlined in the Planned Unit Development Regulations in Article 6.4 of these regulations.
- 9.3.4. The uses permitted in any planned district shall be the same as in the corresponding regular district.
- 9.3.5. The following basic guidelines reflect the core principles of attractive building design in the Planned District:
 - a. Attractive color schemes, employing earth tones with contrasting colors that accent architectural details such as trim, windows, and entrances
 - b. Compatible size and style of buildings
 - c. Natural materials such as wood or stone
 - d. Prominent entries and windows
 - e. Facades with varying depths and corners



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- f. Relate the size and proportions of new commercial structures to the scale of adjacent buildings
- 9.3.6. Building in a Planned District shall be subject to the following appearance and design review guidelines:
- a. Buildings shall incorporate a building front and facie pattern that avoids the appearance of a continuous, unbroken front and shall use vertical or horizontal patterns to vary the linear nature of large storefronts. The storefront shall incorporate wood, masonry, or other attractive design materials to treat the unattractive nature of metal buildings.
 - b. Outlying buildings must incorporate separate landscaping design and buffering to provide an offset from the general parking lot.
 - c. No more than 30% of the parking for the principal use may be maintained in the front yard or the front setback space. The remaining parking must be developed in the rear of the principal building unless waived by the Planning Commission.
 - d. Parking lots must employ attractive landscaping and separation strips in the front yard or front setback area, but not in the case of angled on-street parking
 - e. Separation strips must be at least four feet in width. The location of separation strips and the use of plant materials shall not obstruct the clear vision of traffic or pedestrians.
 - f. All parking spaces must be clearly delineated and painted.
 - g. Traffic flow must be directed by the uses of painted directional symbols of the surface of the parking lot, by directional signs, or both.
 - h. Handicapped parking spaces shall only be located in the front of the first tier of parking spaces, or at building fronts.
 - i. Storefronts must employ signage design elements that give the appearance of a unified color and scale scheme for all building, projecting, and/or flat signs and logos.
 - j. Specific variances and/or site plan waivers may be granted for the above requirements in the case of practical difficulties related to difficult lot design, topography, or excessively narrow lots of record.
 - k. Loading bays and/or docks must be located to the rear or side of all principal or accessory buildings.
 - l. All refuse must be stored in specially designed enclosures that have an appearance which is compatible with surrounding buildings.
- 9.3.7. The Planned District shall include such provisions for the ownership and maintenance of the common open spaces as are reasonably necessary to insure its continuity, care, conversation, and maintenance, and to insure that remedial measures will be available to the Governing Body if the common open space is permitted to deteriorate, or is not maintained in a condition consistent with the best interests of the Planned District or of the entire community.
- 9.3.8. Sidewalks shall be built to County specifications along all public County roads, however, an alternative pedestrian and sidewalk plan may be developed which provides pedestrian access between each use in the Planned District.



- 9.3.9. In Planned Districts, all utility lines, other than large mains shall be placed underground. Areas used for telephone or electrical service must be visually screened from adjacent streets, and properties with lineal or grouped masses of trees and shrubs, provided that, where said service areas abut public walkways or streets, the landscaped area shall not exceed three (3) feet in height.

9.4. Special Development Zone Overlay

- 9.4.1. This is a limited use overlay zone designed specifically for the small unincorporated communities in Pottawatomie County. The Planning Commission recognizes that the process of change, economic development and limited expansion places a considerable financial burden on small communities. These areas may wish to develop small industrial/commercial areas on their boundaries, but often find that the limited purposes zoning districts of this ordinance restrict the range of use and activity contemplated by local governments.
- 9.4.2. The SDZO permits tracts under one ownership to be developed as an entire unit with mixed uses. The first use established in the SDZO determines the official underlying land use designation. The overlay mix permitted is:
- a. Any A district other than AR – Ag-residential
 - b. Any C district
 - c. Any M district
- 9.4.3. Application is initiated by a concept plan indicating the tract, range of uses desired, significant features, access, and internal streets
- 9.4.4. If the Planning Commission approves the initial concept plan, the applicant shall submit a final plat, together with sufficient documentation and covenants necessary to restrict operation and use.
- 9.4.5. The SDZO uses the individual district requirements of this ordinance to control each aspect of the mixed use proposal.
- 9.4.6. In order to conform to the often unique building setbacks of the unincorporated communities of the County, setbacks requirements shall be determined by a plat and shall conform to the surrounding community.
- 9.4.7. The SDZO is intended to be used only in conjunction with an unincorporated community or rural settlement. It is not a general purpose development tool for use in the rural areas of the County.



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10. Conditional Uses

10.1. Granting Conditional Use Permits

- 10.1.1. The Board of County Commissioners may grant a Conditional Use Permit (CUP) for uses that are specifically enumerated in these regulations following a recommendation from the Planning Commission. Granting a CUP does not amend the existing zoning map or text. "Conditional" refers to the type of use rather than the uniqueness of the property. Conditional uses have special characteristics, and they are not ordinarily permitted in a particular zoning district without review.
- 10.1.2. Unless otherwise notified by the County Planner, each applicant for a conditional use permit shall submit the following:
 - a. A to-scale sketch of the proposed property showing adjacent uses, parking areas, drives, proposed screening or landscaping, easements, sign locations, and design.
 - b. A statement that specifies the need for the conditional use, and the exact activities to be conducted on the property.
 - c. A statement as to why the proposed conditional use would not adversely impact nearby property and/or result in a relative loss to the public health, safety, and welfare.
- 10.1.3. Procedure
 - a. Conditional use hearings shall follow the same hearing process articulated in [Article 3.1.6](#) of these regulations
 - b. Votes shall be cast either as a "yes" or a "no" on an issue
 - c. Upon receiving a recommendation from the Planning Commission, the Board of County Commissioners may:
 1. Approve by resolution such recommendation
 2. Override the recommendation by 2/3 majority
 3. Return the recommendation for further study and reconsideration by the Planning Commission with a statement that specifies the reasons for refusal to approve or disapprove.
 - d. A protest petition may be filed for any conditional use, except for those subject to the [Kansas Surface-mining Land Conservation and Reclamation Act](#), according to the procedure laid out in [KSA 12-757\(f\)](#).
- 10.1.4. Required Findings
 - a. A conditional use is not a matter of right. The responsibility and the burden of proof for meeting the stated conditions, and those imposed by the Planning Commission, rests with the applicant. The Planning Commission, in addition to assuring that all stated conditions are fulfilled, must also consider the following items when making their recommendation:
 1. The character of the neighborhood
 2. The zoning and uses of nearby property
 3. The extent to which the proposed conditional use would detrimentally affect nearby property



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4. The length of time the property has remained vacant as zoned
 5. The relative gain to the public health, safety, and welfare as a result of denying this request compared to the hardship imposed upon the individual landowner
- b. County Engineer may require any of the studies and findings required in Article 4.4 of these regulations.

10.2. Table of Conditional Uses

Conditional Use	A1	A2	AB	AR	R1	R2	R3	CN	CS	CH	M2	M3
Accessory Dwelling Unit								x	x	x	x	x
<u>Adult Entertainment*</u>										x		
Aggregate storage and mixing			x									
Airport												x
Animal Research									x			
<u>Animal pound, rescue*</u>	x											
Artisan Man. >10,000 sq ft			x									
Bar/taverns		x										
<u>Bed and Breakfast*</u>	x			x	x	x	x	x	x	x		
<u>Billboard*</u>										x	x	x
Bulk storage	x											
Car and truck rental										x		
<u>Camping/RV Park*</u>	x											
Car Wash								x				
Childcare centers		x			x	x	x		x			
CN permitted uses		x										
Commercial hazardous waste												x
<u>Communication towers*</u>	x		x							x	x	x
Consignment auction	x											
Elder care facilities					x	x	x		x			
Explosive manufacturing												x
Equipment rental	x									x		
<u>Flea markets*</u>	x									x		
Fly ash processing and storage												x
Funeral home					x	x	x					
Group home								x				



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Conditional Use	A1	A2	AB	AR	R1	R2	R3	CN	CS	CH	M2	M3
House of worship		x										
<u>Kennel*</u>	x											
<u>Landfill*</u>	x		x									
Laundry facility							x					
Livestock auction facility			x							x		
Meeting facility		x										
<u>Mining/Quarrying operation*</u>	x		x								x	x
<u>Mixed-Use*</u>							x	x				
Motels and hotels								x				
<u>Pet grooming*</u>	x											
Preschool facility		x			x	x	x					
Recycling center												x
Refuse collection	x											
Restaurant							x					
Retail commercial sales		x					x					
Recreational facility	x				x	x	x					
<u>Rural tourism*</u>	x		x									
Sale of farm machinery		x										
<u>Salvage yard*</u>			x								x	x
School	x	x										
<u>Self-storage*</u>	x											
Shooting range	x									x		
Slaughterhouse												x
Stone fabrication										x		
Tack shop	x											
Truck stop										x		
Used farm vehicle and machinery repair	x											
<u>Used vehicle dealer*</u>	x											
Warehousing									x			
Welding facility										x		
Wind farm*	x											



10.3. Use Limitations for Specified Conditional Uses

- 10.3.1. Kennels; animal pound/rescue facilities subject to the following conditions:
- Located at least 1,000 feet from the nearest off-site residence
 - State license
 - Mobile or manufactured homes, cartons, crates, or truck bodies are prohibited for use as kennels
- 10.3.2. Flea markets or used household goods sales
- Requires restrictions on time limits for operation unless a permanent facility is constructed or adapted
 - Requires screening if located adjacent to retail-commercial, institutional, or residential uses
- 10.3.3. Landfills (multi-purpose, sanitary), landfills for construction demolition or salvage items, but not hazardous materials subject to the following conditions:
- State license
 - Review of operation by the Planning Commission
 - Periodic review by the Planning Commission for compliance with conditions of record and evidence of best practices operation
- 10.3.4. Publicly and privately owned communications towers and customary accessory uses, but this shall not include a communications tower/antenna system that has an agricultural purposes. The following information and conditions are required:
- General development plan which identifies the site location, boundary, tower(s), wires, anchors, existing and proposed structures, parking and access, names of owners and the use of parcels within 1,000 feet of the tower
 - Identification of the number of antennae/cells the tower is designed to accommodate
 - Line of sight analysis showing the potential visual and aesthetic impacts on residential property within 1,000 feet of the tower base
 - The results of the line of sight analysis must indicate that the tower and its lighting will not unreasonably intrude on nearby residences within 1,000 feet, lessen residential property values, or create safety concerns
 - The applicant must demonstrate that the tower will not obstruct traffic vision or distract drivers if located in a public easement
- 10.3.5. Used vehicle dealer subject to the following criteria:
- A valid application for a Kansas Auto Dealers License
 - The tract must be 10 acres or greater in area
 - No more than four (4) motor vehicles offered outdoors for sale at any one time on the premises and no more than ten (10) vehicles stored indoors
 - Vehicles offered for sale outdoors must be stored on a prepared surface in the side or rear yard of the principal or accessory



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structure

- e. No additional lighting beyond normal residential and agricultural illumination permitted.
- f. No banners, strings of lights, or other display/attraction devices may be used
- g. The dealership must be located on the same tract as the personal residence of the applicant
- h. Any additional condition that the Planning Commission feels to be reasonable necessary to insure a harmonious use within the neighborhood

10.3.6. Mini or self-storage units

- a. Located on an impervious surface road with adequate sight distance for ingress and egress
- b. Limited to no more than three (3) buildings and/or 60 total units
- c. A security fence is required
- d. All structures must be setback at least 75 feet from the road right-of-way
- e. All outdoor storage must be screened from view
- f. Security lighting is required. This lighting shall cast downward and limit light pollution on adjacent tracts to the greatest extent feasible.
- g. Any additional condition that the Planning Commission finds reasonably necessary to insure a harmonious use within the area or neighborhood

10.3.7. Pet grooming and boarding

- a. The use may not be located in a residence or on land zoned/ planned for residential use and located at least 500 feet from the nearest offsite residence
- b. Exercise areas must be screened from view

10.3.8. Camping and recreational vehicle park subject to the following requirements:

- a. Manufactured homes are not permitted
- b. Accessory uses: guardian or owner residence, picnic shelters, recreational facilities, mini-storage facilities, bathroom and shower facilities, storm shelters, accessory buildings for the storage of vehicles, concession and similar facilities and buildings to serve park visitors
- c. Each campsite must be a minimum of 25 feet in width and 70 feet in length constructed at a 60 degree angle, or parallel to the service road, and may be a mixture of pull-through and back-in sites with five (5) inches of base rock on compacted earth
- d. Each site must be provided with electric pedestals delivering 20/30/50 amps with a 200 amp breaker for every ten (10) sites, and with water/sewer risers and connection points
- e. A well-lighted entrance way with a wide throat and approach to



allow easy entrance/exit of the units

- f. A service road, twelve (12) feet wide for one-way traffic or twenty (20) feet wide for two-way traffic, with a minimum five (5) inches of road stone and two (2) inches of AB3 gravel, and adequate lighting to facilitate night entrance and road safety
- g. Adequate park lighting
- h. A sewage dump station
- i. Connection to a public water service district and public sewer district or a wastewater treatment system approved by the County Sanitarian and/or KDHE
- j. A site plan showing all buildings, campsites, roads, sewage facilities, and other facilities
- k. Planning Commission may waive any of the conditions/requirements for an RV park or campsite based on size, location, or special considerations
- l. All recreational vehicle parks and campsites must pay a yearly license fee following an annual inspection. Failure to follow the conditions established in these regulations, or those established by the Planning Commission, shall constitute grounds for suspension or revocation of the license

10.3.9. Rural Tourism

- a. A detailed site plan showing all buildings, roads, parking areas, and other facilities
- b. A detailed plan explaining the use, hours of operation, and potential noise generated by the project
- c. Site must be connected to a public water service district and a public sewer district or individual wastewater treatment system approved by the County Sanitarian and/or KDHE

10.3.10. Bed and Breakfast

- a. A Bed and Breakfast facility offers overnight accommodations and meals to paying guests. In addition to the submission of data required for all conditional use permits, the following regulations shall apply:
- b. The facility must be established in a residential-designed building if it is located in a district zoned for residential use
- c. No more than eight (8) rooms shall be rented to guests and one full bathroom facility must be provided for each four (4) rooms for rent
- d. Smoke detection devices must be installed in accordance with ANSI guidelines
- e. Adequate parking, as shown on a sketch plan, and adequate screening where necessary
- f. Local crafts, art, and other items of interests may be sold, but must clearly be incidental to the principal use
- g. An owner or agent must reside on the property
- h. No more than two (2) signs shall be permitted. One may be a small informational sign on the building and the other a monument type sign no larger than 32 sq ft.



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10.3.11. Vehicle salvage yards and auto storage

- a. Located a minimum of 1,000 feet from nearest off-site residence or the nearest platted subdivision at the time the conditional use permit is issued
- b. Perimeter screening/security fence - either solid wood or slats in chain link
- c. Determination of extent, if any, the use would reduce nearby property values, convenience, safety, and habitability of residential property

10.3.12. Mixed-use

- a. Site plan required
- b. The use is limited to residential uses permitted in R2 and R3, and commercial uses permitted in CN
- c. Outside storage of materials is not permitted

10.3.13. Adult entertainment and/or sexually oriented businesses

- a. Demonstration of adequate parking
- b. No service of liquor or cereal malt beverage license
- c. Located at least 1,000 feet from the nearest place of worship, public or private school, residence or land zoned residential, funeral home, public park, childcare facility, any facility licensed to serve alcohol, or other sexually oriented business

10.3.14. Mining/Quarrying Operations

- a. Site plan showing the following:
 1. Proposed mining area
 2. Stockpile area
 3. Crushing area
 4. Floodplain
 5. Any habitable structure within 1,000 feet of the property line on which the operation is proposed
 6. Any structure within 500 feet of the property line on which the operation is proposed
 7. Proposed storm water and washing ponds
 8. Topographic lines with no more than ten (10) foot intervals
 9. Any natural features such as wooded areas, existing ponds, channelized streams, and other physical aspects of the proposed site.
- b. A development plan with the following:
 1. Proposed hours of operations
 2. Dust mitigation
 3. Noise mitigation
 4. Storm water run-off mitigation



5. Light mitigation
6. Blasting information and mitigation
- c. A road maintenance plan
 1. Proposed designated haul routes
 2. Any necessary improvements needed to bring all roads up to at least the minimum county gravel road standards
 3. Prior to mining or extraction operations beginning on any site, Applicant shall enter into a road maintenance agreement specifying a price per ton or other agreed upon financial contribution for the maintenance of all County roads along the designated haul route.
 4. Approval of the road maintenance plan by the County Engineer
- d. Applicant shall provide a reclamation plan that details post-quarry land use, how the final reclamation will be achieved, and illustrating the proposed final topography.

10.3.15. Billboards

- a. See [Article 12.13](#)

10.4. Rescinding Conditional Uses

- 10.4.1. Planning and Zoning Staff may, from time to time, review and inspect conditional uses, and may recommend to Planning Commission that a formal review of the conditional use be conducted.
- 10.4.2. Planning Commission may formally review an approved conditional use, and upon review, may recommend an approved conditional use be rescinded for the following reasons:
 - a. The landowner is violating the approved conditions set by the Planning Commission
 - b. The landowner is conducting the use in violation of any local, state, or federal laws
 - c. The use has not been conducted on the site for a period of five (5) years
 - d. The current landowner requests that the conditional use be rescinded
- 10.4.3. Following public hearing and a recommendation from Planning Commission, the Board of County Commissioners may take the same actions as articulated in Article 10.1.3c.

10.5. Appeals

- 10.5.1. Any person, official, or government agency dissatisfied with the determination or action of the Board of County Commissioners regarding conditional uses may bring action in the District Court of Pottawatomie County to determine the reasonableness of such action. Such appeal shall be brought within 30 days of the determination or action of the Board of County Commissioners.



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11. Floodplain Regulations

11.1. Authorization

- 11.1.1. Approval of Draft Resolution by Kansas Chief Engineer Prior to Adoption. The following floodplain management regulations, as written, were approved in draft form by the Chief Engineer of the Division of Water Resources of the Kansas Department of Agriculture on October 05, 2022.
- 11.1.2. Kansas Statutory Authorization: The Legislature of the State of Kansas has in K.S.A. 12-741 et seq, and specifically in K.S.A. 12-766, delegated the responsibility to local governmental units to adopt floodplain management regulations designed to protect the health, safety, and general welfare. Therefore, the Board of County Commissioners of Pottawatomie County, Kansas, ordains as follows:

11.2. Findings of Fact

- 11.2.1. Flood losses resulting from periodic inundation
 - a. The special flood hazard areas in Pottawatomie County, Kansas 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.
- 11.2.2. General causes of the flood losses
 - a. These flood losses are caused by (1) the cumulative effect of development in any delineated floodplain causing increases in flood heights and velocities; and (2) the occupancy of flood hazard areas by uses vulnerable to floods, hazardous to others, inadequately elevated, or otherwise unprotected from flood damages.
- 11.2.3. Methods used to analyze flood hazards
 - a. The Flood Insurance Study (FIS) that is the basis of this resolution uses a standard engineering method of analyzing flood hazards, which consist of a series of interrelated steps.
 - 1. Selection of a base flood that is based upon engineering calculations, which permit a consideration of such flood factors as its expected frequency of occurrence, the area inundated, and the depth of inundation. The base flood selected for this resolution is representative of large floods, which are characteristic of what can be expected to occur on the particular streams subject to this resolution. The base flood is the flood that is estimated to have a one percent chance of being equaled or exceeded in any one year as delineated on the Federal Insurance Administrator's FIS, and illustrative materials dated December 4, 2012 as amended, and any future revisions thereto.
 - 2. Calculation of water surface profiles that are based on a standard hydraulic engineering analysis of the capacity of the stream channel and overbank areas to convey the regulatory flood.
 - 3. Computation of a floodway required to convey this flood without increasing flood heights more than one (1) foot at any point.



4. Delineation of floodway encroachment lines within which no development is permitted that would cause any increase in flood height.
5. Delineation of floodway fringe, i.e., that area outside the floodway encroachment lines, but still subject to inundation by the base flood.

11.3. Statement of Purpose

- 11.3.1. It is the purpose of this resolution to promote the public health, safety, and general welfare; to minimize those losses described in Article 1, Section B(1); to establish or maintain the community's eligibility for participation in the National Flood Insurance Program (NFIP) as defined in 44 Code of Federal Regulations (CFR) 59.22(a)(3); and to meet the requirements of 44 CFR 60.3(d) and K.A.R. 5-44-4 by applying the provisions of this resolution to:
 - a. Restrict or prohibit uses that are dangerous to health, safety, or property in times of flooding or cause undue increases in flood heights or velocities;
 - b. Require uses vulnerable to floods, including public facilities that serve such uses, be provided with flood protection at the time of initial construction; and
 - c. Protect individuals from buying lands that are unsuited for the intended development purposes due to the flood hazard.

11.4. General Provisions

- 11.4.1. A lands to which resolutions apply
 - a. This resolution shall apply to all lands within the jurisdiction of Pottawatomie County identified as numbered and unnumbered A Zones, AE, AO, and AH Zones, on the Index Map, dated November 17, 2022, of the Flood Insurance Rate Map (FIRM) as amended and any future revisions thereto. In all areas covered by this resolution, no development shall be permitted except through the issuance of a floodplain development permit, granted by the Board of County Commissioners or its duly designated representative under such safeguards and restrictions as the Board of County Commissioners or the designated representative may reasonably impose for the promotion and maintenance of the general welfare, health of the inhabitants of the community, and as specifically in section 11.6.
- 11.4.2. Compliance
 - a. No development located within the special flood hazard areas of this community shall be located, extended, converted, or structurally altered without full compliance with the terms of this resolution and other applicable regulations.
- 11.4.3. Abrogation and greater restrictions
 - a. It is not intended by this resolution to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this resolution imposes greater restrictions, the provisions of this resolution shall prevail. All other resolutions inconsistent with this resolution are hereby repealed to the extent of the inconsistency only.
- 11.4.4. Interpretation
 - a. In their interpretation and application, the provisions of this resolution shall be held to be minimum requirements, shall be



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liberally construed in favor of the governing body, and shall not be deemed a limitation or repeal of any other powers granted by Kansas statutes.

11.4.5. Warning and disclaimer of liability

- a. The degree of flood protection required by this resolution 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 man-made or natural causes, such as ice jams and bridge openings restricted by debris. This resolution does not imply that areas outside the floodway and flood fringe or land uses permitted within such areas will be free from flooding or flood damage. This resolution shall not create a liability on the part of Pottawatomie County, Kansas, any officer or employee thereof, for any flood damages that may result from reliance on this resolution or any administrative decision lawfully made there under

11.4.6. Severability

- a. If any section; clause; provision; or portion of this resolution is adjudged unconstitutional or invalid by a court of appropriate jurisdiction, the remainder of this resolution shall not be affected thereby

11.5. Administration

11.5.1. Floodplain development permit

- a. A floodplain development permit shall be required for all proposed construction or other development, including the placement of manufactured homes, in the areas described in Section 11.4.1. No person, firm, corporation, or unit of government shall initiate any development or substantial-improvement or cause the same to be done without first obtaining a separate floodplain development permit for each structure or other development.

11.5.2. Designation of the Floodplain Administrator

- a. The Pottawatomie County Zoning Administrator is hereby appointed to administer and implement the provisions of this resolution as the Floodplain Administrator

11.5.3. Duties and Responsibilities of Floodplain Administrator Duties of the Floodplain Administrator shall include, but not be limited to:

- a. Review of all applications for floodplain development permits to assure that sites are reasonably safe from flooding and that the floodplain development permit requirements of this resolution have been satisfied;
- b. Review of all applications for floodplain development permits for proposed development to assure that all necessary permits have been obtained from Federal, State, or local governmental agencies from which prior approval is required by Federal, State, or local law;
- c. Review all subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, to determine whether such proposals will be reasonably safe from flooding;
- d. Issue floodplain development permits for all approved applications;



- e. Notify adjacent communities and the Division of Water Resources, Kansas Department of Agriculture, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency (FEMA);
- f. Assure that the flood-carrying capacity is not diminished and shall be maintained within the altered or relocated portion of any watercourse; and
- g. Verify and maintain a record of the actual elevation (in relation to mean sea level) of the lowest floor, including basement, of all new or substantially improved structures;
- h. Verify and maintain a record of the actual elevation (in relation to mean sea level) that the new or substantially improved non-residential structures have been flood proofed;
- i. When flood proofing techniques are utilized for a particular non-residential structure, the floodplain administrator shall require certification from a registered professional engineer or architect.

11.5.4. Application for a floodplain development permit

- a. To obtain a floodplain development permit, the applicant shall first file an application in writing on a form furnished for that purpose. Every floodplain development permit application shall:
 - 1. Describe the land on which the proposed work is to be done by lot, block and tract, house and street address, or similar description that will readily identify and specifically locate the proposed structure or work;
 - 2. Identify and describe the work to be covered by the floodplain development permit;
 - 3. Indicate the use or occupancy for which the proposed work is intended;
 - 4. Indicate the assessed value of the structure and the fair market value of the improvement;
 - 5. Specify whether development is located in designated flood fringe or floodway;
 - 6. Identify the existing base flood elevation and the elevation of the proposed development;
 - 7. Give such other information as reasonably may be required by the floodplain administrator;
 - 8. Be accompanied by plans and specifications for proposed construction; and
 - 9. Be signed by the permittee or his authorized agent who may be required to submit evidence to indicate such authority.

11.6. Provisions for Flood Hazard Reduction

11.6.1. General Standards

- a. No permit for floodplain development shall be granted for new construction, substantial-improvements, and other improvements, including the placement of manufactured homes, within any numbered or unnumbered A zones, AE, AO, and AH zones, unless the conditions of this section are



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satisfied.

- b. All areas identified as unnumbered A zones on the FIRM are subject to inundation of the 100-year flood; however, the base flood elevation is not provided. Development within unnumbered A zones is subject to all provisions of this resolution. If Flood Insurance study data is not available, the community shall obtain, review, and reasonably utilize any base flood elevation or floodway data currently available from Federal, State, or other sources.
- c. Until a floodway is designated, no new construction, substantial improvements, or other development, including fill, shall be permitted within any unnumbered or numbered A zones, or AE zones on the FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.
- d. All new construction, subdivision proposals, substantial-improvements, prefabricated structures, placement of manufactured homes, and other developments shall require:
 1. Design or adequate anchorage to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
 2. Construction with materials resistant to flood damage;
 3. Utilization of methods and practices that minimize flood damages;
 4. All electrical, heating, ventilation, plumbing, air-conditioning equipment, and other service facilities be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
 5. 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 from them during flooding; and
 6. Subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, located within special flood hazard areas are required to assure that:
 1. All such proposals are consistent with the need to minimize flood damage;
 2. All public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage;
 3. Adequate drainage is provided so as to reduce exposure to flood hazards; and
 4. All proposals for development, including proposals for manufactured home parks and subdivisions, of five (5) acres or fifty (50) lots, whichever is lesser, include within such proposals base flood elevation data.
- e. Storage, Material, and Equipment



1. The storage or processing of materials within the special flood hazard area that are in time of flooding buoyant, flammable, explosive, or could be injurious to human, animal, or plant life is prohibited.
 2. Storage of other material or equipment may be allowed if not subject to major damage by floods, if firmly anchored to prevent flotation or if readily removable from the area within the time available after a flood warning.
- f. Nonconforming Use
1. A structure, or the use of a structure or premises that was lawful before the passage or amendment of the resolution, but which is not in conformity with the provisions of this resolution, may be continued subject to the following conditions:
 - a. If such structure, use, or utility service is discontinued for 12 consecutive months, any future use of the building shall conform to this resolution.
 - b. If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than fifty (50) percent of the pre-damaged market value of the structure. This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, building, safety codes, regulations or the cost of any alteration of a structure listed on the National Register of Historic Places, the State Inventory of Historic Places, or local inventory of historic places upon determination.
- g. Accessory Structures
1. Structures used solely for parking and limited storage purposes, not attached to any other structure on the site, of limited investment value, and not larger than 600 square feet, may be constructed at-grade and wet-floodproofed provided there is no human habitation or occupancy of the structure; the structure is of single-wall design; the accessory structure meets the following floodplain management requirements; and a floodplain development permit has been issued. Wet-floodproofing is only allowed for small low cost structures.
 2. Any permit granted for an accessory structure shall be decided individually based on a case by case analysis of the building's unique circumstances. Permits shall meet the following conditions.
 3. In order to minimize flood damages during the one percent annual chance flood event, also referred to as the 100-year flood and the threat to public health and safety, the following conditions shall be required for any permit issued for accessory structures that are constructed at-grade and wet-floodproofed:
 - a. Use of the accessory structures must be solely for parking and limited storage purposes in any special flood hazard area as identified on the community's Flood Insurance Rate Map (FIRM).
 - b. For any new or substantially damaged accessory structures, the exterior and interior building components and elements (i.e., foundation, wall framing, exterior and interior finishes, flooring, etc.)



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below the base flood elevation, must be built with flood-resistant materials in accordance with Section 11.6.1.d(2) of this resolution.

- c. The accessory structures must be adequately anchored to prevent flotation, collapse, or lateral movement of the structure in accordance with Section 11.6.1.d(1) of this resolution. All of the building's structural components must be capable of resisting specific flood-related forces including hydrostatic, buoyancy, and hydrodynamic and debris impact forces.
- d. Any mechanical, electrical, or other utility equipment must be located above the base flood elevation or floodproofed so that they are contained within a watertight, floodproofed enclosure that is capable of resisting damage during flood conditions in accordance with Section 11.6.1.d (4) of this resolution.
- e. The accessory structures must meet all NFIP opening requirements. The NFIP requires that enclosure or foundation walls, subject to the one percent annual chance flood event, also referred to as the 100-year flood, contain openings that will permit the automatic entry and exit of flood waters in accordance with Section 11.6.2.a (3) of this resolution.
- f. The accessory structures must comply with the floodplain management floodway encroachment provisions of Section 11.6.5.a (2) of this resolution. No permits may be issued for accessory structures within any designated floodway, if any increase in flood levels would result during the 100-year flood.
- g. Equipment, machinery, or other contents must be protected from any flood damage.
- h. No disaster relief assistance under any program administered by any Federal agency shall be paid for any repair or restoration costs of the accessory structures.
- i. Wet-floodproofing construction techniques must be reviewed and approved by the community. The community may request approval by a registered professional engineer or architect prior to the issuance of any floodplain development permit for construction. Cost for any required professional certification to be paid by the developer.

h. Cumulative Improvement

- 1. A structure may be improved (remodeled or enlarged) without conforming to current requirements for elevation so long as the cumulative value of all work done within the last 5 calendar years does not exceed fifty (50) percent of the structure's current market value. If the cumulative value of the improvement exceeds fifty (50) percent of the structure's current market value, the structure must be brought into compliance with Section 11.6.2.a which requires elevation of residential structures to one (1) foot above the base flood elevation or the elevation/floodproofing of non-residential structures to one (1) foot above the base flood elevation.

11.6.2. Specific Standards

- a. In all areas identified as numbered and unnumbered A zones,



AE, and AH Zones, where base flood elevation data have been provided, as set forth in, Section 11.6.2.a, the following provisions are required:

1. New construction or substantial-improvement of any residential structures, including manufactured homes, shall have the lowest floor, including basement, elevated a minimum of one (1) foot above base flood elevation. The elevation of the lowest floor shall be certified by a licensed land surveyor or professional engineer.
2. New construction or substantial-improvement of any commercial, industrial, or other non-residential structures, including manufactured homes, shall 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, be flood proofed to a minimum of one (1) foot above the base flood elevation. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. The elevation of the lowest floor shall be certified by a licensed land surveyor or professional engineer. Such certification shall be provided to the floodplain administrator as set forth in, Section 104 C (7)(8)(9).
3. Require, for all new construction and substantial improvements that fully enclosed areas below lowest floor used solely for parking of vehicles, building access, or storage in an area other than a basement and 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 flood waters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:
 1. A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided; and
 2. The bottom of all opening shall be no higher than one (1) 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 flood waters.

11.6.3. Manufactured Homes

- a. All manufactured homes to be placed within all unnumbered and numbered A zones, AE, and AH zones, on the community's FIRM shall be required to be installed using methods and practices that minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.
- b. Require manufactured homes that are placed or substantially improved within unnumbered or numbered A zones, AE, and AH zones, on the community's FIRM on sites:
 1. Outside of a manufactured home park or subdivision;
 2. In a new manufactured home park or subdivision;



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3. In an expansion to and existing manufactured home park or subdivision; or
 4. In an existing manufactured home park or subdivision on which a manufactured home has incurred substantial-damage as the result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated a minimum of one (1) foot above the base flood elevation and be securely attached to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. The elevation of the lowest floor shall be certified by a licensed land surveyor or professional engineer.
- c. Require that manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within all unnumbered and numbered A zones, AE and AH zones, on the community's FIRM, that are not subject to the provisions of Section 11.6.3.b of this resolution, be elevated so that either:
1. The lowest floor of the manufactured home is a minimum of one (1) foot above the base flood level; or
 2. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than thirty-six (36) inches in height above grade and be securely attached to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. The elevation of the lowest floor shall be certified by a licensed land surveyor or professional engineer.

11.6.4. Areas of Shallow Flooding (AO and AH zones)

- a. Located within the areas of special flood hazard as described in Section 103 A are areas designated as AO zones. These areas have special flood hazards associated with base flood depths of one (1) to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. The following provisions apply:
- b. AO Zones
1. All new construction and substantial-improvements of residential structures, including manufactured homes, shall have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two (2) feet if no depth number is specified).
 2. All new construction and substantial-improvements of any commercial, industrial, or other non-residential structures, including manufactured homes, shall have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community FIRM (at least two (2) feet if no depth number is specified) or together with attendant utilities and sanitary facilities be completely flood proofed to that level so that the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
 3. Adequate drainage paths shall be required around structures on slopes, in order to guide floodwaters around and away from proposed structures.



c. AH Zones

1. The specific standards for all areas of special flood hazard where base flood elevation has been provided shall be required as set forth in, Section 105 B.
2. Adequate drainage paths shall be required around structures on slopes, in order to guide floodwaters around and away from proposed structures.

11.6.5. Floodway

- a. Located within areas of special flood hazard established in, Section 103 A, are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters that carry debris and potential projectiles, the following provisions shall apply:
 1. The community shall select and adopt a regulatory floodway based on the principle that the area chosen for the regulatory floodway must be designed to carry the waters of the base flood without increasing the water surface elevation of that flood more than one (1) foot at any point.
 2. The community shall prohibit any encroachments, including fill, new construction, substantial improvements, and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
 3. If Section 105 E (2), is satisfied, all new construction and substantial-improvements shall comply with all applicable flood hazard reduction provisions of Section 105.
 4. In unnumbered A zones, the community shall obtain, review, and reasonably utilize any base flood elevation or floodway data currently available from Federal, State, or other sources as set forth in this Article.

11.6.6. Recreational Vehicles

- a. Require that recreational vehicles placed on sites within all unnumbered and numbered A Zones, AE, AH, and AO Zones on the community's FIRM either:
 1. Be on the site for fewer than 180 consecutive days, or
 2. Be fully licensed and ready for highway use*; or
 3. Meet the permitting, elevation, and anchoring requirements for manufactured homes of this resolution.

11.6.7. Conditions for Approving Variances for Temporary Structures

- a. Any variance granted for a temporary structure shall be decided individually based on a case by case analysis of the building's unique circumstances. Variances granted shall meet the following conditions as well as those criteria and conditions set forth above in Section 106 D and E of this resolution.
- b. A temporary structure may be considered for location within the one percent annual chance flood event, also referred to as the 100-year floodplain only when all of the following criteria are met:

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



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1. Use of the temporary structure is unique to the land to be developed and cannot be located outside of the floodplain nor meet the NFIP design standards;
 2. Denial of the temporary structure permit will create an undue hardship on the property owner;
 3. Community has adopted up-to-date NFIP and building regulations to direct placement and removal of the temporary structure; and,
 4. Community has sufficient staff to monitor the placement, use, and removal of the temporary structure throughout the duration of the permit.
- c. Once all of the above conditions are met, an application for a special use permit must be made to the Board of County Commissioners. The Board of County Commissioners shall consider all applications for special use permits for a temporary structure based on the following criteria:
1. The placement of any temporary structure within the special flood hazard areas as shown on the community's adopted FEMA/NFIP map shall require an approved special use permit. The special use permit shall be valid for a period not to exceed 180 days.
 2. Special use permits applications, for a temporary structure to be located in special flood hazard areas, shall conform to the standard public hearing process prior to any community action on the permit request.
 3. An emergency plan for the removal of the temporary structure that includes specific removal criteria and time frames from the agency or firm responsible for providing the manpower, equipment, and the relocation and disconnection of all utilities shall be required as part of the special use permit application for the placement of any temporary structure.
 4. On or before the expiration of the end of the 180 day special use permit period, the temporary structure shall be removed from the site. All utilities, including water, sewer, communication, and electrical services shall be disconnected.
 5. To ensure the continuous mobility of the temporary structure for the duration of the permit, the temporary structure shall retain its wheels and tires, licenses, and towing appurtenance on the structures at all times
 6. Under emergency flooding conditions, the temporary structure shall be removed immediately or as directed by the community and as specified in the emergency removal plan.
 7. Location of any temporary structure within the regulatory floodway requires the provision of a "no-rise" certificate by a registered professional engineer.
 8. Violation of or non-compliance with any of the stated conditions of the special use permit during the term thereof, shall make the permit subject to revocation by resolution of the governing body of the community. Issuance of permit revocation notice shall be made to the landowner, the occupant of the land, and to the general public.
 9. Any deviation from the approved site plan shall be deemed



a violation of the special use permit approval and the uses allowed shall automatically be revoked. The subsequent use of the land shall be as it was prior to the special permit approval. In event of any violation, all permitted special uses shall be deemed a violation of this resolution and shall be illegal, non-conforming uses and shall be summarily removed and abated.

10. If the temporary structure is to be returned to its previously occupied site, the process for issuing a special use permit must be repeated in full. Any subsequent permit shall be valid for 180 days only.

11.7. Floodplain Management Variance Procedure

11.7.1. Establishment of an Appeal Board

- a. The Pottawatomie County Board of Zoning Appeals, as established by Pottawatomie County Board of County Commissioners shall hear and decide appeals and requests for variances from the floodplain management requirements of this resolution, except that the Floodplain Administrator may hear and decide variance requests for agricultural structures and accessory buildings.

11.7.2. Responsibility of the Appeal Board

- a. Where an application for a floodplain development permit is denied by the Floodplain Administrator, the applicant may apply for such floodplain development permit directly to the Appeals Board, as defined in Section 106 A.
- b. The Appeals Board shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this resolution.

11.7.3. Further Appeals

- a. Any person aggrieved by the decision of the Appeal Board or any taxpayer may appeal such decision to the District Court as provided in K.S.A. 12-759 and 12-760.

11.7.4. Floodplain Management Variance Criteria

- a. In passing upon such applications for variances, the Appeal Board shall consider all technical data and evaluations, all relevant factors, standards specified in other sections of this resolution, and the following criteria:
 1. Danger to life and property due to flood damage;
 2. Danger that materials may be swept onto other lands to the injury of others;
 3. Susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 4. Importance of the services provided by the proposed facility to the community;
 5. Necessity to the facility of a waterfront location, where applicable;
 6. Availability of alternative locations, not subject to flood damage, for the proposed use;



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7. Compatibility of the proposed use with existing and anticipated development;
8. Relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
9. Safety of access to the property in times of flood for ordinary and emergency vehicles;
10. Expected heights, velocity, duration, rate of rise and sediment transport of the flood waters, if applicable, expected at the site; and,
11. 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; streets; and bridges.

11.7.5. Conditions of Approving Floodplain Management Variances

- a. Generally, variances may be issued 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 elevation, providing items two (2) through six (6) below have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- b. Variances may be issued for the reconstruction, repair, rehabilitation, or restoration of structures listed on the National Register of Historic Places, the State Inventory of Historic Places, or local inventory of historic places upon determination, provide the proposed activity will not preclude the structure's continued historic designation and the variance is the minimum necessary to preserve the historic character and design of the structure.
- c. Variances shall not be issued within any designated floodway if any significant increase in flood discharge would result.
- d. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- e. Variances shall only be issued upon: (a) showing of good and sufficient cause, (b) determination that failure to grant the variance would result in exceptional hardship to the applicant, and (c) 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 resolutions.
- f. A community shall notify the applicant in writing over the signature of a community official that: (a) the issuance of a variance to construct a structure below base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage and (b) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with the record of all variance actions as required by this resolution.
- g. A community shall maintain a record of all variance actions, including justification for their issuance
- h. Variances may be issued by a community for new construction



and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that the criteria of items 1 through 5 of this section are met, and the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

11.8. Violations

- 11.8.1. The floodplain administrator may make reasonable entry upon any lands and waters in Pottawatomie County for the purpose of making an investigation, inspection or survey to verify compliance with these regulations. The floodplain administrator shall provide notice of entry by mail, electronic mail, phone call, or personal delivery to the owner, owner's agent, lessee, or lessee's agent whose lands will be entered. If none of these persons can be found, the floodplain administrator shall affix a copy of the notice to one or more conspicuous places on the property a minimum of five (5) days prior to entry.
- 11.8.2. A structure or other development without a floodplain development permit or other evidence of compliance is presumed to be in violation until such documentation is provided.
- 11.8.3. The floodplain administrator shall provide written notice of a violation of this resolution to the owner, the owner's agent, lessee, or lessee's agent by personal service or by certified mail, return receipt requested. The written notice shall include instructions and a deadline to request a hearing before the appeals board, and if no hearing is requested, a deadline by which the violation must be corrected.
- 11.8.4. Violation of the provisions of this resolution or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with granting of variances) shall constitute a misdemeanor. Any person who violates this resolution or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$500.00, and in addition, shall pay all costs and expenses involved in the case.. Each day such violation continues, shall be considered a separate offense. Nothing herein contained shall prevent Pottawatomie County or other appropriate authority from taking such other lawful action as is necessary to prevent or remedy any violation.
- 11.8.5. Notwithstanding any criminal prosecutions or in lieu of any criminal prosecutions, the written notice of violation shall state that the county may seek a mandatory civil injunctive order under K.S.A. 60-901 to require the owner, occupant or agent to remove the structure. If the owner, occupant or agent fails to remove the structure, the county may remove the structure and seek a civil judgment against the owner, occupant or agent for the costs of said abatement.

11.9. Amendments

- 11.9.1. The regulations, restrictions, and boundaries set forth in this resolution 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, however, that no such action may be taken until after a public hearing in relation thereto, at which parties of interest and citizens shall have an opportunity to be heard. Notice of the time and place of such hearing shall be published in a newspaper of general circulation in Pottawatomie County.
- 11.9.2. At least twenty (20) days shall elapse between the date of this publication and the public hearing. A copy of such amendments will be provided to the FEMA Region VII office. The regulations of this



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resolution are in compliance with the NFIP regulations.

11.10. Definitions

11.10.1. Unless specifically defined below, words or phrases used in this resolution shall be interpreted so as to give them the same meaning they have in common usage and to give this resolution it's most reasonable application.

"100-year Flood" *see "base flood."*

"Accessory Structure" means the same as *"appurtenant structure."*

"Actuarial Rates" *see "risk premium rates."*

"Administrator" means the Federal Insurance Administrator.

"Agency" means the Federal Emergency Management Agency (FEMA).

"Agricultural Commodities" means agricultural products and livestock.

"Agricultural Structure" means any structure used exclusively in connection with the production, harvesting, storage, drying, or raising of agricultural commodities

"Appeal" means a request for review of the Floodplain Administrator's interpretation of any provision of this resolution or a request for a variance.

"Appurtenant Structure" means a structure that is on the same parcel of property as the principle structure to be insured and the use of which is incidental to the use of the principal structure.

"Area of Shallow Flooding" means a designated AO or AH zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one (1) to three (3) feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

"Area of Special Flood Hazard" is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year.

"Base Flood" means the flood having a one percent chance of being equaled or exceeded in any given year.

"Base Flood Elevation" means the elevation of the surface of the water during a one percent annual chance flood event.

"Basement" means any area of the structure having its floor subgrade (below ground level) on all sides.

"Building" *see "structure."*

"Chief Engineer" means the chief engineer of the division of water resources, Kansas Department of Agriculture.



"Chief Executive Officer" or "Chief Elected Official" means the official of the community who is charged with the authority to implement and administer laws, resolutions, and regulations for that community.

"Community" means any State or area or political subdivision thereof, which has authority to adopt and enforce floodplain management regulations for the areas within its jurisdiction.

"Development" means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, levees, levee systems, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

"Elevated Building" means for insurance purposes, a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

"Eligible Community" or "Participating Community" means a community for which the Administrator has authorized the sale of flood insurance under the National Flood Insurance Program (NFIP).

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

"Existing Manufactured Home Park or Subdivision" means a manufactured home park or subdivision 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 before the effective date of the floodplain management regulations adopted by a community.

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

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

"Flood Boundary and Floodway Map (FBFM)" means an official map of a community on which the Administrator has delineated both special flood hazard areas and the designated regulatory floodway.



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"Flood Elevation Determination" means a determination by the Administrator of the water surface elevations of the base flood, that is, the flood level that has a one percent or greater chance of occurrence in any given year.

"Flood Elevation Study" means an examination, evaluation and determination of flood hazards and if appropriate, corresponding water surface elevations.

"Flood Fringe" means the area outside the floodway encroachment lines, but still subject to inundation by the regulatory flood.

"Flood Hazard Boundary Map (FHBM)" means an official map of a community, issued by the Administrator, where the boundaries of the flood areas having special flood hazards have been designated as (unnumbered or numbered) A zones.

"Flood Hazard Map" means the document adopted by the governing body showing the limits of: (1) the floodplain; (2) the floodway; (3) streets; (4) stream channel; and (5) other geographic features.

"Flood Insurance Rate Map (FIRM)" means an official map of a community, on which the Administrator has delineated both the special flood hazard areas and the risk premium zones applicable to the community.

"Flood Insurance Study (FIS)" means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

"Floodplain" or "Flood-prone Area" means any land area susceptible to being inundated by water from any source (*see "flooding"*).

"Floodplain Management" means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.

"Floodplain Management Regulations" means zoning resolutions, subdivision regulations, building codes, health regulations, special purpose resolutions (such as floodplain and grading resolutions) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

"Flood proofing" means any combination of structural and nonstructural additions, changes, or adjustments to structures that reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, or structures and their contents.

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

"Floodway Encroachment Lines" means the lines marking the limits of floodways on Federal, State and local floodplain maps.



"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 bridge openings and the hydrological effect of urbanization of the watershed.

"Functionally Dependent Use" means a use that cannot perform its intended purpose unless it is located or carried out in close proximity to water. This term includes only docking facilities, and facilities that are necessary for the loading and unloading of cargo or passengers, but does not include long-term storage or related manufacturing facilities.

"Highest Adjacent Grade" means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

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

"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 flood proofing design requirements of this resolution.

"Manufactured Home" means a structure, transportable in one or more sections, that is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term *"manufactured home"* **does not include** a *"recreational vehicle."*

"Manufactured Home Park or Subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

"Map" means the Flood Hazard Boundary Map (FHBM), Flood Insurance Rate Map (FIRM), or the Flood Boundary and Floodway Map (FBFM) for a community issued by the Federal Emergency Management Agency (FEMA).

"Market Value" or "Fair Market Value" means an estimate of what is fair, economic, just and equitable value under normal local market conditions.



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"Mean Sea Level" means, for purposes of the National Flood Insurance Program (NFIP), the National Geodetic Vertical Datum (NGVD) of 1988 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map (FIRM) are referenced.

"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 an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, *"new construction"* means structures for which the *"start of construction"* commenced on or after the effective date of the floodplain management regulations adopted by a community and includes any subsequent improvements to such structures.

"New Manufactured Home Park or Subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lot 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 community.

"(NFIP)" means the National Flood Insurance Program (NFIP).

"Numbered A Zone" means a special flood hazard area where the Flood Insurance Rate Map shows the Base Flood Elevation

"One percent annual flood chance flood" see *"base flood"*

"Participating Community" also known as an *"eligible community,"* means a community in which the Administrator has authorized the sale of flood insurance.

"Permit" means a signed document from a designated community official authorizing development in a floodplain, including all necessary supporting documentation such as: (1) the site plan; (2) an elevation certificate; and (3) any other necessary or applicable approvals or authorizations from local, state or federal authorities.

"Person" includes any individual or group of individuals, corporation, partnership, association, or any other entity, including Federal, State, and local governments and agencies.

"Principally Above Ground" means that at least 51 percent of the actual cash value of the structure, less land value, is above ground.

"Reasonably Safe From Flooding" means base flood waters will not inundate the land or damage structures to be removed from the SFHA and that any subsurface waters related to the base flood will not damage existing or proposed buildings.

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



"Remedy A Violation" means to bring the structure or other development into compliance with Federal, State, or local floodplain management regulations; or, if this is not possible, to reduce the impacts of its noncompliance.

"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 National Flood Disaster Protection Act of 1973 and the accepted actuarial principles. *"Risk premium rates"* include provisions for operating costs and allowances.

"Special Flood Hazard Area" see *"area of special flood hazard."*

"Special Hazard Area" means an area having special flood hazards and shown on an FHBM, FIRM or FBFM as zones (unnumbered or numbered) A, AO, AE, or AH.

"Start of Construction" includes substantial improvements, and means the date the building permit was issued provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvements were within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slabs or footings, the installation of piles, the construction of columns, 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, the installation of streets and/or walkways, excavation for a basement, footings, piers, foundations, the erection of temporary forms, nor installation on the property of accessory structures, 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.

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

"Structure" means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. *"Structure"* for insurance purposes, means a walled and roofed building, other than a gas or liquid storage tank that is principally above ground and affixed to a permanent site, as well as a manufactured home on a permanent foundation, or a travel trailer, without wheels on a permanent foundation. For the latter purpose, the term includes a building while in the course of construction, alteration or repair, but does not include building materials or supplies intended for use in such construction, alteration or repair, unless such materials or supplies are within an enclosed building on the premises.

"Substantial-Damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to pre-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.



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"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 "*start of 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 that 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*."

"Temporary Structure" means a structure permitted in a district for a period not to exceed 180 days and is required to be removed upon the expiration of the permit period. Temporary structures may include recreational vehicles, temporary construction offices, or temporary business facilities used until permanent facilities can be constructed, **but at no time shall it include manufactured homes used as residences.**

"Unnumbered A Zone" means a special flood hazard area shown on either a flood hazard boundary map or flood insurance rate map where the base flood elevation is not determined

"Variance" means a grant of relief by the community from the terms of a floodplain management regulation. Flood insurance requirements remain in place for any varied use or structure and cannot be varied by the community.

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

"Water Surface Elevation" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1988 (or other datum where specified) of floods of various magnitudes and frequencies in the floodplain riverine areas.



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12. Sign Regulations

12.1. Purpose

- 12.1.1. The governing body and the planning commission find that unregulated proliferation of signs results in visual clutter harmful to aesthetics and property values, contributes to traffic hazards, and is not productive to the goals of community development. It is the intent and purpose of this section to establish a level of visual quality for signs by limiting the type, place, size, manner, height and materials of signs and advertising devices in Pottawatomie County. This section provides minimum standards to insure traffic safety; safeguard life, health and property values; provide guidelines for the maintenance of signs; reduce distractions and obstructions from signs which would adversely affect traffic safety, and to alleviate hazards caused by signs projecting over or encroaching upon public ways; ensure that signs provide orientation and adequately identify new uses and activities; preserve or enhance rural character and scenic vistas by encouraging new and replacement signage which is:
- Creative and distinctive
 - Compatible with the surroundings
 - Appropriate to the type of activity to which it pertains
 - Expressive of the identity of the individual
 - Appropriately sized in its context, so as to be easily readable
- 12.1.2. No sign may be erected, placed, painted, established, or maintained in Pottawatomie County except in conformance with the standards, exemptions and procedures set forth in this ordinance.
- 12.1.3. Specifically this section is intended to:
- Establish a permit system to allow a limited variety of signs, subject to the standards and permit procedures contained herein;
 - Allow certain signs that are unobtrusive and incidental to the principal use of land;
 - Prohibit all signs not expressly permitted by this resolution;
 - Provide for the enforcement of these provisions.
 - Assure that no person shall construct, locate, or maintain any sign without the consent of the land owner or the owner's agent or other authorized representative.

12.2. Permits Required

- 12.2.1. Unless exempted by this ordinance, it shall be unlawful for any person to erect, construct, alter, relocate or convert any sign or advertising device (as defined in this section) without first obtaining a sign permit, and the payment of the proper fee required by the governing body.
- 12.2.2. Applications
- Applications for sign permits shall be made on forms provided by the Pottawatomie Office of Planning and Development.
 - Other information as deemed necessary by the Planning



Commission required enforcing this section.

- c. Signs must be erected within one (1) year after permit issuance.

12.3. Exempt Signs

- 12.3.1. The following signs shall be exempt from all fees and regulations, except that no sign shall be located in a public R.O.W or create a traffic hazard.
 - a. Official monument signs erected by a city, or county, school district office, State of Kansas, or the federal government.
 - b. Off-site signs erected for public information, safety or direction by any utility, authority, public service district, or construction company.
 - c. On-site signs that are internally located within a complex of buildings, housing development, or institutional setting, that give directions to a building or area, building names, warnings, *de-minimus* posters and signs on accessory buildings, or flags.
 - d. Signs specifically required by the codes, policies, or laws of Pottawatomie County.
 - e. Signs used in conjunction with uses that have an agricultural purpose.

12.4. Classification of Signs

- 12.4.1. For the purpose of this regulation the following terms shall be used to identify and classify various types of signs:
 - a. Advertising Sign (Billboard): A commercial sign with copy that directs attention to a business other than the premises on which the sign is located.
 - b. Advertising Sign, Digital (Digital Billboard): An advertising sign that is completely or partially a digital graphic sign.
 - c. Bulletin Board Sign. A sign with copy that gives the name of the institution or organization on whose premises it is located and which may include the names of person associated with the institution or organization and announcements and messages pertaining to activities thereof.
 - d. Business Sign: A commercial sign with copy that directs attention to a business, product or service, ot entertainment conducted, sold or offered at the location of the premises upon which the sign is located.
 - e. Canopy Sign: An on-site sign attached to or integrated into an awning or canopy, but excluding a sign not exceeding on square ft. in size attached to or integrated into the underside of the awning or canopy identifying the manufacturer.
 - f. Free-standing Sign: Any sign that is supported by a structure of one or more columns, uprights, or braces erected in or upon the ground, or affixed to outdoor business equipment or fixtures. Free-standing signs include monument signs, pylon sign, pole signs and A-frame signs.
 - g. Marquee Sign: A sign attached to an overhanging structure of permanent construction that project more than 18 inches over the side walk or other right-of-way.
 - h. Projecting Sign: A sign that is affixed to an exterior wall that



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extends more than 12 inches from the face of the building.

- i. Roof Sign: A sign that is erected or painted on the roof of a building.

12.5. Design, Construction, and Maintenance of Signs

12.5.1. Design

- a. All signs shall designed, constructed and maintained in accordance with the following standards:
- b. Except for flags, and in certain cases temporary, window, and banner signs, all devices shall be constructed of permanent materials, permanently attached to the ground, a building, or another structure, but not a fence or a tree. Specifically, signs may be constructed from wood, plastic, metal and/or masonry materials, or materials permitted after conditional review by the Planning Commission.
- c. All signs shall be maintained in good *visual order* and safe structural condition and in compliance with all applicable provisions of this UDR at all times.
- d. All off-site signs, including billboards, shall bear the name and address of the sign owner

12.5.2. Abandoned or Unsafe Signs

- a. Except as otherwise provided in these resolutions, any sign (including its structure) which is located on a building or premise which becomes vacant or unoccupied for a period of one year or more, or any sign which pertains to time, event, or purpose which no longer applies, shall be deemed to be abandoned.
- b. An abandoned sign shall be removed by its owner or the owner of the premises, and the facade or site shall be restored to its normal appearance.
- c. If a sign has not been removed after the one year limitation, the owner of record (of the property and/or sign) shall be notified in writing that the sign shall be removed within 30 days after the date of the notice. If the sign is not removed within the 30-day limitation, the zoning administrator may have the sign removed, and the costs for such assessed to the owner. A statement of costs shall be mailed to the last known owner of said sign, and if the costs are not fully paid within 30 days, the zoning administrator shall forward the bill to the proper county authorities to be collected with property taxes.
- d. If the zoning administrator finds that any sign or advertising device is unsafe, he/she shall notify the property owner in writing. If the sign is not removed within 30 days, such device shall be removed and the costs assessed to the owner of the property. Uncollected removal costs shall be assessed with taxes.

12.5.3. Previously Legally Conforming Signs

- a. Signs erected prior to adoption of this ordinance that do not conform to the provisions this ordinance, shall be modified or removed according to the following:
- b. Nonconforming signs shall only be replaced with conforming signs or a sign that is more conforming.
- c. Private signs within the R.O.W are a hazard and shall be



considered illegal. *Unless exempt under KSA _____*

- d. All signs legally conforming to the provisions of prior zoning ordinances, except those located within a R.O.W, shall be allowed to continue unchanged and unaltered except for normal and routine maintenance and safety improvements, or efforts to bring the sign into greater conformity.

12.6. Temporary Signs – Portable Signs and Banners

12.6.1. Generally: (see also Table of Signs)

- a. *Temporary, portable, or banner signs may be issued a temporary permit granted for up to 60 days in any given year*



12.7. General Restrictions

- 12.7.1. No sign shall be attached to any tree, fence, or utility pole, except signs issued or properly posted by a utility, public authority, no trespassing, or an agricultural use.
- 12.7.2. No sign shall be erected:
- At any location where, by reason of position, obstruction, shape, or color, it interferes with or obstructs the view of pedestrian or vehicular traffic.
 - That is an attention/attraction device not specifically allowed by these resolutions.
 - That is a flashing or blinking sign (does not include digital sign devices).
 - That is a string of lights, except when used for decorative purposes during a holiday season.
 - That moves, rotates, turns or is animated, or consists of pennants, ribbons, streamers, sheets, spinners, or other moving devices. This includes Tri-Vision-type signs.
 - That projects into the public right-of-way or is in a mapped floodplain area that requires a floodplain development permit.
 - Which, in the opinion of the Zoning Administrator, may be confused with an authorized traffic sign, signal, device, or emergency sign.
 - Signs with audible devices.

12.8. Table of Signs

Permitted Signs for uses in Multiple Districts	Type	Max Size	Max Height	Max Number	Setback	Permit Req?	Illum. Type	Notes
	Temporary Signs	90 sq ft	Exempt	–	Note A	Yes, see 12.6 above	None	–
	Institutional Uses	60 sq ft	8 ft	See notes	Note A	Yes	External	One monument, one wall sign up to 30% of signable area
	Day care or adult care	16 sq ft	8 ft	–	Note A	Yes	None	Monument style only



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Type	Max Size	Max Height	Max Number	Setback	Permit Req?	Illum. Type	Notes	
Monument Sign	8 sq ft	4 ft	1	Note A	Yes	None	–	Residential Uses
Wall Sign	4 sq ft	–	1	–	Yes	None	–	
Monument Sign	48 sq ft	8 ft	1	Note A	Yes	External	On per principal building or entrance	Non-Residential Uses in Residential Zones
Wall sign - Principal Building	30% of signable area	–	1	–	Yes	External or Internal	One sign per ROW-facing wall	
Wall sign - Individual business	16 sq ft	–	1	–	Yes	External	One sign per business	
Wall sign - Accessory building	8 sq ft	–	1	–	No	External	One per accessory building	
Canopy sign	35% of canopy area	–	–	–	No	External	–	
Window sign	30% of window area	–	–	–	No	External or Internal	–	
Freestanding monument sign or kiosk	48 sq ft	8 sq ft	1	Note A	Yes	External	One per principal building	CN – Commercial Neighborhood
Wall sign - Principal building	30% signable area	–	1	–	Yes	External or Internal	One sign per ROW-facing wall	
Wall sign - Individual business	16 sq ft	–	1	–	Yes	External	One sign per business	
Wall sign - Accessory building	8 sq ft	–	1	–	No	External	One per accessory building	
Canopy sign	35% of canopy area	–	–	–	No	External	–	



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	Type	Max Size	Max Height	Max Number	Setback	Permit Req?	Illum. Type	Notes
CN – Commercial Neighborhood	Window sign	30% of window area	–	–	–	No	External or Internal	–
	Temporary sign or banner	–	–	1	Note A	Yes	External	One per principal building; 30-day maximum
CH – Commercial Highway and CS – Commercial Services Outside Sales and Storage	Freestanding monument sign or kiosk	80 sq ft	12 ft	3	1 ft from ROW	Yes	External	One per 200 feet of ROW frontage
	Freestanding pole sign	80 sq ft	Height of principal building	3	1 ft from ROW	Yes	–	
	Wall sign - principal building	50% of signable area	–	1	–	Yes	External or Internal	One sign per ROW-facing wall
	Wall sign - Individual business	16 sq ft	–	1	–	Yes	External	One sign per business
	Wall sign - Accessory building	8 sq ft	–	1	–	No	External	One per accessory building
	Canopy sign	50% of canopy area	–	–	–	No	External	–
	Window sign	30% of window area	–	–	–	No	External or Internal	–
	Temporary sign or banner	–	–	–	Note A	Yes	External	One per principal building; 30-day maximum
CH and CS – Indoor retail, offices, or services	Freestanding monument sign or kiosk	80 sq ft	12 ft	1	1 ft from ROW	Yes	External or Internal	One per principal building
	Freestanding pole sign	80 sq ft	Height of principal building	1	1 ft from ROW	Yes	–	
	Wall sign - principal building	30% of signable area	–	1	–	Yes	External or Internal	One per ROW-facing wall




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Type	Max Size	Max Height	Max Number	Setback	Permit Req?	Illum. Type	Notes	
Wall sign - Individual business	16 sq ft	–	1	–	Yes	External	One sign per business	CH and CS – Indoor retail, offices, or services
Wall sign - Accessory building	8 sq ft	–	1	–	No	External	One per accessory building	
Canopy sign	50% of canopy area	–	–	–	No	External	–	
Window sign	30% of window area	–	–	–	No	External or Internal	–	
Temporary sign or banner	–	–	1	Note A	Yes	External	One per principal building; 30-day maximum	
Freestanding monument sign or kiosk	48 sq ft	12 ft	1	1 ft from ROW	Yes	External or Internal	On per principal building	Manufacturing Employment Park District
Freestanding pole sign	80 sq ft	Height of principal building	1	1 ft from ROW	Yes	–		
CN Signs	–	–	–	–	–	–	All signs as permitted in the CN District	
Alternative Signs	–	–	–	–	–	–	May submit a signing plan for approval during site plan review	
Freestanding monument sign or kiosk	80 sq ft	12 ft	2	1 ft from ROW	Yes	External or Internal	One sign per 200' of street frontage	M2 and M3 Manufacturing Districts
Freestanding pole sign	80 sq ft	Height of principal building	1	1 ft from ROW	Yes	–	–	
All CH and CS Outside Storage Signs	–	–	–	–	–	–	All other signs as permitted in the CH and CS outside storage	



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Planned Districts	Type	Max Size	Max Height	Max Number	Setback	Permit Req?	Illum. Type	Notes
	All signs – A signing plan is submitted and approved as part of the approval process. Absent a signing plan the CN sign regulations shall be used for non-residential purposes and the residential sign regulations shall be used in all other projects							
AB – Ag-Business, inside retail, service, and professional	Freestanding monument sign or kiosk	48 sq ft	12 ft	1	1 ft from ROW	Yes	External	On per principal building or entrance
	Freestanding pole sign	48 sq ft	Height of principal building	1	1 ft from ROW	Yes	–	
	All CN Signs	–	–	–	–	–	–	All other signs as permitted in the CN District
AB – Ag-Business, outside storage of sales and materials	Freestanding monument sign or kiosk	80 sq ft	12 ft	3	1 ft from ROW	Yes	External	One sign per 200' of street frontage
	Freestanding pole sign	80 sq ft	Height of principal building	1	1 ft from ROW	Yes	–	
	All CH and CS outside storage signs	–	–	–	–	–	–	All other signs as permitted in the CH and CS outside storage regulations
Ag Uses	Exempt							
Non-Agricultural Uses Permitted in AI – Agriculture	Freestanding monument sign or kiosk for permitted uses	32 sq ft	8 ft	1	1 ft from ROW	Yes	External or Internal	One per non-exempt permitted use
	Wall sign - principal building for permitted uses	 32 sq ft	–	1	–	Yes	External or Internal	One per non-exempt permitted use
	Wall sign - individual business for permitted uses	16 sq ft	–	1	–	Yes	External	One per individual business
	Wall sign - accessory building for permitted uses	8 sq ft	–	1	–	No	External	One per accessory building



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Type	Max Size	Max Height	Max Number	Setback	Permit Req?	Illum. Type	Notes	Non-Agricultural Uses Permitted in A1 – Agriculture
Freestanding monument sign or kiosk	8 sq ft	8 sq ft	1	1 ft from ROW	Yes	External	One sign per lot or tract	
Wall sign	4 sq ft	–	1	–	Yes	External	One sign per lot or tract	
See Billboard section of this Article	300 sq ft	40 ft	–	$\frac{1}{2}$ distance of required setback	Yes	External, internal, or digital	Billboard is not permitted to be within 1,000 feet of another billboard	Billboards

12.9. Modification of Sign Rights

12.9.1. Permitted Modifications

- The Planning Commission is hereby empowered to modify the number, type, size, and placement of all signs in all districts to adjust for practical difficulty and/or hardship
- Practical difficulty shall mean, but is not limited to, changes in grade and slope; distance of principal buildings from roads; speed of traffic; public safety; and the need for advertising visibility due to multiple frontages.
- Hardship shall mean, but is not limited to, non-flexible requirements arising from franchises, registered trademarks, or product “logos.”
- A request for a sign modification may be heard at any regular meeting for the Planning Commission. All applicants requesting modifications shall submit sketches or drawings of the sign, a location map, sizes and coloration of the sign, and written justification for the change.
- The maximum size modification for a ground sign by the Planning Commission is 90 sq ft.

12.10. Administrative Modification of Signs

- The Zoning Administrator is hereby empowered to make administrative adjustment to sign rights under the following guidelines:
 - Any sign may be increased in area by a maximum of 10 percent to adjust for visibility.
 - Any sign may be increased by 10 percent in height to account for changes in elevation between the road and the principal building.
 - The Zoning Administrator may designate an exact location for any sign that, in his/her opinion is a hazard to traffic or public safety.

12.11. Transfer of Sign Rights

- Property owners/operators located off main roads, grouped together in one building, or clustered in individual buildings on one



site may wish to exercise their signage rights in a manner not permitted in 12.8 above. The following rules shall govern the transfer of signage rights:

- a. A use which does not front on a main road may transfer pole or monument signage rights to property located on a main or frontage road.
- b. Multiple uses on a single tract of lot may transfer all or part of their monument or wall sign rights to a single on-site monument, kiosk, or pole sign.

12.12. Miscellaneous Sign Controls

- 12.12.1. Applicability: For non-residential uses not controlled by other sections of this sign ordinance, including institutional uses, one ground and one wall sign shall be permitted by right. Maximum size is 48 square feet unless modified for practical reasons.

12.13. Billboards

- 12.13.1. A billboard or off-site sign shall be permitted as a conditional use in areas zoned for a commercial highway (CH) or an industrial purpose (M-2 or M-3 districts) under the following criteria:
 - a. The lot has a minimum frontage of 200' bordering a public right-of-way on the following major traffic ways in Pottawatomie County: U.S. Highway 24, Kansas Highways 13, 16, 99 and 63.
 - b. The proposed sign structure would be located at least 1,000' in any direction from an existing off-site, billboard sign unless a modification is granted by the Planning Commission.
 - c. The land, if zoned "CH" or "M2" is vacant, and no principal structure has been erected.
- 12.13.2. Required Findings for Conditional Use
 - a. Billboards or off-site signs shall be in harmony with the general character of the surrounding buildings, and shall relate to other on premise signs in terms of location, scale, and color.
 - b. Billboards or off-site signs shall not dominate a particular site or result in an over concentration of advertising devices.
 - c. Billboards or off-site signs shall be placed with due regard for the property rights of adjacent land owners and shall be erected, to the greatest degree possible, away from property lines.
 - d. Billboards or off-site signs shall not obscure, conflict, or project over another sign.
- 12.13.3. Siting Criteria for All Billboards and other Off Site Signs
 - a. The billboard must not be larger than 300 sq. ft., or the off-site sign larger than 80 sq. ft. on a single sign surface unless special permission is granted by the Planning Commission for practical difficulty.
 - b. The sign shall have a maximum of two faces.
 - c. The total billboard height shall be limited to 40' and the off-site sign to 35 ft. unless special permission is granted by the Planning Commission to increase the sign height, or the Zoning Administrator grants an administrative variance for changes in grade and terrain.



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- d. The supporting pole for the sign shall not be located closer than 30' to any principal structure, and no part of the structure shall project over an accessory use or another sign.
- e. No part of the billboard/sign shall project over a right-of-way, either public or private, and no part of the structure shall be located closer than **100 feet** to the intersection of two or more public roads unless a waiver is granted by the Zoning Administrator for practical difficulty related to terrain or visibility.
- f. All applicants must possess a valid permit from the State of Kansas prior to erecting a billboard or off-site sign on any state-controlled highway.



12.14.Digital Signs

- 12.14.1. A digital component may be incorporated into any sign in **commercial or manufacturing zoning districts** to a maximum of 50 percent of the signable area.
- 12.14.2. Advertising signs (billboards) may be erected with a sign face that does not exceed 12 feet in height exclusive of the supports, base elements, and other structural members. Stacked or double deck digital signs shall not be permitted.
 - a. No digital advertising sign (billboard) may be placed closer than 100 feet to an intersection and all such signs shall maintain a distance of 1,000 feet to another advertising billboard sign
 - b. Flashing lights are prohibited. There shall be no appearance of dissolving, fading, or video. Each message must be displayed for at least 30 seconds before alternating to a new message.



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13. Substitutions, Publications, and Miscellaneous Provisions

13.1. Environmental Impact Study

- 13.1.1. The purpose of the environmental impact study is to gauge the extent of negative impacts of certain uses on the natural and man-made environments, on agricultural production, existing economic conditions, and established patterns of the neighborhood.
- 13.1.2. The Planning Commission may direct, or the County Planner may require, that an applicant file and impact statement after an initial review of a specific application and when:
- It is assumed that there will be irreversible, negative impacts or irretrievable losses to the natural environment
 - It is assumed that there will be impacts of great magnitude to the social and economic well-being of the County
 - It is assumed that conditions arising from a use of the land could have a serious negative impact on public safety, health, or welfare.
- 13.1.3. A "Notice of Impact" statement shall be sent by mail to an applicant and/or landowner of the subject property. A copy of the notice shall be sent to all property owners within 1,000 feet of the proposed use.
- 13.1.4. Each impact study shall be submitted in professional form and may include studies of the following information:
- Waste disposal, including sewage
 - Storage, disposal and transport of hazardous waste materials
 - Assessment of the amount of water to be used, the amount of water available and the impact to nearby uses, including agricultural uses, due to a draw down of the water table
 - The amount of traffic to be expected if the proposed use operates at full capacity and the condition of the roads and bridges in the vicinity.
 - A description of the off-site public improvements that would be needed to support the proposed project. Off-site public improvements include, but are not limited to: new or expanded roads, pedestrian infrastructure, storm water facilities, water and sewer infrastructure, and emergency services
 - A description of the number of school-aged children as a result of this project that would need to be served by the relevant school districts
 - Irretrievable and irreversible losses to the natural environment, including prime agricultural land.
 - Impacts caused by noise, dust, light, glare, etc
 - A cash flow analysis of the project

13.2. Conforming Zoning Changes

- 13.2.1. Planning Commission may, upon its own motion without further recourse to hearing or publication, substitute a more restrictive zoning district in accordance with the chart to the right.

Table 13.1



13.3. Notice and Publication Requirements

13.3.1. Using the guidelines provided in Kansas State Statutes, the rules governing notice and publication for official actions of the County shall be:

Action	Publish Notice	Publish Resolution	Place	Time	Written Notice	To Whom	Method
Comp Plan Amendment	Yes	Yes	Official County Newspaper	20 days prior to hearing	Yes	All cities	Regular Mail
Subdivision Amendment	Yes	Yes	Official County Newspaper	20 days prior to hearing	Yes	All cities	Regular Mail
Preliminary Plat	No	No	None	None	None	None	None
Final Plat	No	No	No	None	None	None	None
Zone Map Amendment	Yes	Yes	Official County Newspaper	20 days prior to hearing	Yes	Property Owners within 1000'	Regular Mail
Zone Text Amendment	Yes	Yes	Official County Newspaper	20 days prior to hearing	No	No	None
Conditional Use Permit	Yes	Yes	Official County Newspaper	20 days prior to hearing	Yes	Property owners within 1000'	Regular Mail
BZA Appeal	Yes	No	Official County Newspaper	20 days prior to hearing	Yes	Notice to each party in appeal	Regular Mail
Variance	No	No	None	None	Yes	Adjacent property owners	Regular Mail

13.3.2. The proper fee for the specific request must be paid, and the necessary forms processed before the Zoning Administrator will initiate action for a hearing

13.4. Miscellaneous Provisions

13.4.1. Non-Operative Vehicles and Machinery

- It is the policy of Pottawatomie County to provide a safe and attractive residential, agricultural residential, and commercial



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areas by regulating the open storage of non-operable vehicles, equipment, and machines. Therefore, the outside storage of salvage or scrap materials, household goods, furniture, business equipment, construction debris, and other materials for more than 48 hours is prohibited on any non-agricultural tract (under 40 acres) unless such materials are fully screened from view or are located in a legally established salvage yard or in conjunction with a use that customarily stores items for sale outdoors, such as car sales.

- b. A storage area may be screened by an opaque solid fence (constructed of approved materials), a wall, berm, or other land forms with rounded slopes or similarly established landscape.
- c. Non-Operative Vehicle
 - 1. The intent of this regulation is to prevent the repair, restoration, assembly, disassembly, storage, rental, sale, or standing of more than one inoperable vehicle or trailer where it is visible from the surrounding property or roads.
 - 2. A non-operative vehicle shall include every device required to purchase a vehicle license by the State of Kansas. A non-operative vehicle, besides the normal and customary definition, also means the presence of a major mechanical defect which precludes operation on a public road.
 - 3. Inoperable motor vehicles, trailers, or construction equipment shall not be stored, nor shall they be allowed to stand on any non-agricultural tract of ground in any manner except the following:
 - 1. One inoperable vehicle may be open stored for the purposes of repair and/or restoration
 - 2. In a legally established and conforming vehicle storage or salvage yard
- d. Non-Operative Machinery
 - 1. Non-operative machinery or appliances include construction equipment, clothes washers and dryers, lawn mowers, bicycles, refrigerators, compressors, generators, air conditioners, lawn tractors, and similar equipment.
- e. These regulations on non-operative vehicles, machinery, or equipment are not meant to include working farms, storage lots that have an agricultural purpose, or land that is zoned and meant to be used for salvage yards.
- f. The Zoning Administrator is charged with the enforcement of these provisions. All violations shall be processed in a manner consistent with Article 1.5 of these regulations. However, if the violating property owner ignores a proper order to abate, the County Commissioners may, by resolution, provide for the removal of such vehicles and charge an expense not to exceed \$100.00 per vehicle or machine to property taxes.

13.4.2. Microenterprise



- a. A commercial enterprise limited to 800 square feet, one employee in addition to the property owner, and is open to the public on a very limited scale.
- b. The microenterprise shall be located in a dwelling unit or in a permitted accessory building located on the same lot as the dwelling unit



- c. All microenterprises shall obtain a Home Occupation permit when the microenterprise is open to the public. Permits shall continue to be in force for as long as the microenterprise continues to operate under the original owner. Home occupation permits are non-transferable.
- d. The following uses, under the terms of these regulations, do not need a microenterprise permit to operate:
 - 1. In A1 zoned areas, the incidental sale of agricultural products such as food, or the sale of seed and fertilizer on a part time basis in conjunction with an operating farm
 - 2. Hobbies that relate to crafts, art, and handiwork that are not open to the public
 - 3. A home business with no employees other than family members which is not open to the public
- e. *Bona fide* agricultural uses in the A1 district may obtain a microenterprise permit to sell limited quantities of stock and trade items, such as non-motorized, highly customized items for farm and agricultural purposes. These items may include, but are not limited to stock rails and trailers, flat bed trailers, trailer accessories, and similar uses. Sale is limited to five (5) customized items on the premises when they are in plain view from lot lines.
- f. Any microenterprise that was in legal operation prior to the adoption and publication of these regulations that does not conform to the district regulations shall be allowed to continue as a previously legally conforming use. Additionally, and previously issued home occupation permit that remains in good standing shall continue to operate. Subsequent owners of the land and/or buildings shall not continue a previously conforming use unless it is made to conform to these regulations.
- g. The following activities are specifically prohibited and excluded as micro-enterprises:
 - 1. Motor vehicle sale and repair
 - 2. Sale of package liquor or cereal malt beverages
 - 3. Sale or accumulation of salvage
 - 4. Kennels

13.4.3. *Special Events Permit*



- a. Special events permits shall be issued to uses in the nature of amusement or attraction that are generally one-time events and not a permanent use and do not obstruct County rights-of-way. Such uses include:
 - 1. Tractor pulls; races
 - 2. Festivals; concerts
 - 3. Fireworks stands
 - 4. Sporting events
 - 5. Fairs and carnivals
 - 6. Large, single-event auctions
 - 7. Similar uses



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b. Procedure

1. The Zoning Administrator shall determine whether or not a use meets the criteria of section 13.4.3.a and may issue a special events permit to allow the activity to proceed
2. If the Zoning Administrator determines that the use may still fall under the criteria, but the activity is likely to be associated with significant site impacts (traffic, dust, noise, etc) they may refer the matter to the Board of Zoning Appeals
3. The Board of Zoning Appeals, after examination of all of the facts and circumstances may impose appropriate conditions and allow the use on an occasional basis.

c. Special Event permits shall include, but are not limited to

1. Appropriate time limits for operation, if necessary
2. The number of times the activity may operate
3. Set conditions as operating principles, including the advice and approval of the Director of Emergency Management, *Fire Supervisor, and/or Sheriff.*
4. Incorporate rules and conditions established by the Kansas State Fire Marshal or other state institution, agency, or statute, and any general resolutions of Pottawatomie County

d. The Special Event permit is a license to operate an activity. It may be revoked for failure to operate within the established conditions, and shall not run from operator to operator. The Special Event permit shall be signed by both the property owner and applicant.

e. Any Special Event permit approved by the Board of Zoning Appeals shall also be signed by the Zoning Administrator



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14. Definitions

14.1. Definitions

Abutting - Having a common border with, or being separated from a common border by a right-of-way or other type of easement

Accessory Building - A structure which serves and is subordinate to a principal use. Unless exempted, an accessory structure must be located on the same zoning lot or tract as the principal use. A permit may not be issued for an accessory use unless a permit is also issued for a principal use. Mobile homes or manufactured homes, truck trailers/bodies, railroad cars, RVs, or buses shall not be used as accessory buildings in any zoning district other than A1 - Agriculture.

Accessory Use - A use customarily incidental or subordinate to the principal use of buildings or land and located on the same parcel or zoning lot as the principal use.

Adult Entertainment or Adult Use (KSA 12-770 - Sec. 10) - The definition of adult uses shall include the following types of establishments:

Adult Arcade - Any place to which the public the public is permitted or invited in which coin-operated, slug operated, or other electronically, electrically, or mechanically operated still or motion pictures, projectors, video or laser disc players or other image producing devices are maintained to show images to five (5) or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of specified sexual activities or specified anatomical areas

Adult Bookstore, Novelty Store, or Video Store - Means a commercial establishment which, as one of its principal purposes, offers for sale, for any form of consideration, any one or more of the following:

1. Books, magazines, periodicals, or other printed matter or photographs films, motion pictures, video cassettes, slides or other visual representations that are characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas
2. Instruments, devices, or paraphernalia that are designed for use in conjunction with specified sexual activities

Adult Cabaret - A nightclub, bar, restaurant, or similar establishment which *regularly* features live performances that are characterized by the exposure of specified anatomical areas or specified sexual activities or photographs, films, motion pictures, video cassettes, slides, or other photographic reproductions in which a substantial portion of the total presentation time is devoted to the showing of material that is characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.

Adult Motel - A hotel, motel, or other similar commercial establishment which offers accommodations to the public for any form of consideration and provides patrons with closed-circuit television transmission, films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas and has a sign



visible from the public right-of-way which advertises the availability of this adult type of photographic reproductions, or offers sleeping room for rent for a period of time that is less than ten (10) hours or allows a tenant or occupant of a sleeping room to subrent the room for a period of time that is less than ten (10) hours.

Adult Motion Picture Theater - Means an establishment where, for any form of consideration, films motion picture slides, computer clips, virtual reality simulations, or similar photographic reproductions are regularly shown, and in which a substantial portion of the total presentation time is devoted to the showing of material that is characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.

Adult Facility - A theater, concert hall, auditorium, building, car wash, or similar establishment regularly characterized by the exposure of specified anatomical areas or specified sexual activities.

Adult Massage Parlor - An establishment where, for any form of consideration, massage, alcohol rub, fomentation, electrical or magnetic treatment or manipulation of the human body is administered, unless such treatment is by a medical practitioner, chiropractor, acupuncturist, physical therapist, or similar professional person licensed by the State of Kansas. This definition does not include an athletic club, school, gymnasium, reducing salon, spa, or similar establishment where massage or similar manipulation of the human body as offered as an incidental or accessory service.

Sexual Encounter Club or Establishment - An establishment other than a hotel, motel, or similar establishment offering public accommodations, which, for any form of consideration, provides a place where two or more persons may congregate, associate, or consort in connection with specified sexual activities or the exposure of specified anatomical areas. This definition does not include an establishment where a medical practitioner, psychologist, psychiatrist, or similar professional person licensed by the State of Kansas engages in sexual therapy.

Escort - A person who, for consideration, agrees to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person

Escort Agency - A person or business association who furnishes, offers to furnish or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration

Nude Model Studio - Any place where a person appears semi-nude, in a state of nudity, or who displays specified anatomical areas and is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration. Nude model studios shall not include a college, community college, or university supported entirely or in part by public money, or in a structure or private studio that (1) has no sign visible from the exterior of the structure and other advertising that indicates a nude or semi-nude person is available for viewing, (2) where, in order to participate in a class, a student must enroll at least three (3) working days in advance of a class, and (3) where no more than one nude or semi-nude model is on the premises at any one time.

Specified Anatomical Areas - As used herein, specified anatomical areas means and includes any of the following:



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1. Less than completely and opaquely covered human genitals, public region, anus, or female breasts below a point immediately above the top of the areolae
2. Human male genitals in a discernibly turgid state, even if completely and opaquely covered

Specified Sexual Activities - As used herein, specified sexual activities means and includes any of the following:

1. The fondling or other erotic touching of human genitals, pubic regions, buttocks, anus, or female breasts
2. Sex acts normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy
3. Masturbation, actual or simulated
4. Excretory functions as a part of or in conjunction with any of the activities set forth above in this section

Agent - Any person who acts for the property owner to obtain a building permit, applies for a rezoning or subdivision, variances or exceptions

Agriculture and Agricultural Use and Purpose - Valid agriculture and agricultural uses and/or purposes include the growing of crops, dairying, pasturage, horticulture, viticulture, animal and poultry husbandry, and the sale of products raised on the premises. As a general rule, the minimum acreage for agricultural exemptions is 40 acres or a whole quarter-quarter section. Acreages less than 40 acres shall be reviewed on a case-by-case basis to determine the validity of the agricultural use. This definition shall not include a hobby farm.

Agricultural Building - An agricultural building is any structure incidental to and supportive of agriculture. Agricultural buildings include, but are not limited to: farm family residence, barns, sheds, granaries, silos, wind towers, structures and buildings for the housing of farm animals, or buildings and structures for the storage or housing of equipment and machinery or foodstuff produced on the farm.

Agritourism - A commercial enterprise conducted on a working farm or ranch for the enjoyment or education of visitors, and provides supplemental income to the farm or ranch owner or operator.

Airport or Aircraft Landing Field - Any area which is used or intended for use for the landing and takeoff of aircraft, and any appurtenant areas used for storage, or other facilities or rights-of-way, including taxiways, aircraft storage and tie down areas, hangars, and other related buildings and open spaces.

Airport Hazard District - An airport hazard district is an area or tract of land designated on the zoning map in which special controls on height of buildings, generation of smoke, environmental conditions, etc., shall be imposed on any of the land or structures situated in the district.

Alley - An alley means any public thoroughfare twenty (20) feet or less in width that has been legally dedicated or devoted to public use and is meant to provide a secondary public means of access to the rear and side yards.

Alteration - An alteration, as applied to a building or structure, means any construction which increases the area or height of any portion of the building or structure as measured either in linear or square feet.



Alterations, Structural - Any change which would result in or tend to prolong the life of the supporting members of a building or structure, such as bearing walls, columns, beams or girders.

Animal Hospital {veterinary clinic} - An activity conducted by a doctor of veterinary medicine primarily dedicated to the treatment, diagnosis, care and examination of livestock, domesticated animals or wildlife.

Animal Sanctuary - A building(s) or use of the land dedicated primarily to the care of abandoned, unwanted, sick or discarded domesticated animals.

Apartment - An apartment is a portion of a building or dwelling consisting of a group of rooms used as a dwelling unit by one of more persons.

Area - The area is a function of the length of bounding sides yielding a measurement of the surface given in "square" units of length: e.g., square meters or yards or feet.

Area, Floor - The floor area is the surface included within the surrounding exterior walls of a building or portion thereof, exclusive of vent shafts and courts.

Area of a Building - The total of all floor surfaces, including attached garages and below grade rooms, expressed in square feet, yards or meters {exclusive of uncovered porches, terraces and steps}.

Arterial Street - Any street serving major traffic movements, designed primarily as a road to serve collector streets.

Artisan Manufacturing - A manufacturing enterprise limited to 10,000 square feet of production space that does not cause any noise, odor, or vibration above ambient levels. Artisan manufacturing enterprises may include metalwork, woodworking, textiles, ceramics, food production, breweries or wineries, and other similar uses.

Assurance - A financial commitment consisting of letters of credits, construction bonds, cash, or other instruments approved as to form by the County Counselor, to cover the cost of public improvements in subdivisions.

Attic Story - An attic story is any story situated wholly or partly in the roof, so designated, arranged, or built so as to be used for business, storage, or habitation.

Base Setback Line - A point from which all required setbacks are measured. Where no R.O.W is present, the measurement point shall be along the property line.

Basement - A basement or walk-out is that portion of a building located below grade. (Also see cellar.)

Bathroom - A room containing bath, water closet or mechanically flushable device for the disposal of human waste, and a basin with running hot and cold water and drainage piping or tubing.

Bed-and-Breakfast Facility - As used in this ordinance, a dwelling unit {or a structure converted to a dwelling unit}, where short-term lodging and meals are provided. The operator or agent of the operator shall live on the premises.

Bedroom - A room in a dwelling unit in which one or more persons normally sleep.

Board of County Commissioners - The Board of County Commissioners of Pottawatomie County consists of three (3)



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commissioners elected at regular elections to govern Pottawatomie County.

Board of Zoning Appeals - The BZA is an administrative board that consists of five (5) members of the Planning Commission.

Boarding House - A building other than a hotel, motel or motor hotel, or bed-and-breakfast where lodging and/or meals are provided for guests pursuant to previous arrangements, but not for the public or transients.

Buffer Area - A strip of land, identified on a site plan or as required in this ordinance, established to protect on type of land use from another land use that is incompatible. Normally, the area is landscaped or kept in open space, or is screened by landscaping materials or a fence.

Building - Any covered structure built for support, shelter, or enclosure of persons, animals, chattels or movable property of any kind, and which is permanently affixed to the land.

Building, Assembly - An assembly building is a building or a portion thereof used for the gathering together of fifty (50) or more persons. A building which can accommodate 100 or more persons for drinking and dining establishments shall be classified as an assembly building.

Building, Completely Enclosed - For the purposes of this ordinance, any building having no outside openings other than ordinary doors, windows and ventilators and no outside storage except for refuse collection.

Building, Attached - A building having any portion of a wall(s) in common with an adjoining building.

Building, Detached - A structure not supported by or appurtenant to another structure.

Building Envelope - The portion of a lot shown in a final plat which may be used for construction purposes, including: Buildings, accessory uses, lateral fields, lagoons and parking. Typically, the lot building envelope is the area bounded by the required setback and side and rear yards. However, because of conditions arising from soils composition, slope, drainage and other natural features, the building envelope may be either reduced or increased in size at the direction of the Planning Commission.

Building, Front of - The face of the building nearest the front line of the lot. This face includes covered porches but does not include steps.

Building, Height of - The vertical distance measured from the average elevation of the proposed finished grade of the building to the highest eave of the roof

Building, Main - A structure which supports the principal use of the lot or land.

Building Permit - A document obtained for building construction from the Planning and Zoning Staff. A schedule of fees for building permits can be found in Article 1 of this Ordinance.

Bulk Regulations - An indication of the size and setbacks of buildings and their location with respect to one another. Bulk regulations specify the maximum square feet, height and width of a building.

Capacity in Persons - The maximum number of persons that can obtain services (or goods) from an establishment or use, at any one time, with reasonable safety and comfort.



Car Wash - Any land, building or part of a building or structure used for the washing of vehicles for monetary consideration or other valuable considerations, whether such washing and cleaning is done manually by the user of the service, by the owner or representatives or employees of the owner, or partly through manual use and partly through mechanical aid, or entirely through mechanical contrivances.

Cemetery - Land, structures and buildings and monuments contained on one lot or plot or plat, section or lots used for the purpose of the burial of human remains.

Cemetery, Animal - Distinguished from a cemetery in that the purpose is the repository of animal remains.

Child Care - Includes the following definitions: {Exempt: Programs operating five (5) consecutive hours or less per week; irregular care for two - six consecutive hours on an unscheduled basis}

Licensed Day Care Home - a facility giving regular care for less than 24 hours per day to a maximum of six (6) children under Kindergarten age {includes the family's own children in this age group and four additional children kindergarten age and over, with a maximum of ten (10) children including the provider's children}.

Group Day Care Home - a facility licensed to care for a maximum of 12 children under 14 years of age.

Registered Family Day Care Home - a licensed facility giving regular care for less than 24 hours per day to six (6) or fewer children away from the child's home. The total must include the family's own children under the age of 16, and may not include more than three (3) children under 18 months of age {including the family's own children in this age group}.

Child Care Center/Preschool - a licensed facility in which care and educational activities are provided for 13 or more children two weeks to 16 years of age for more than three (3) hours and less than 24 hours per day {including day time, evening, and night time care}, or which provides before and after school care for school aged children. A facility may not have fewer than 13 children and be licensed as a center if the program and building meet child care center regulations. For facility regulations see KSA 1982 Supp. 72-1107(c)

Residential Care - a facility, which is defined by the State of Kansas as a 24 hour care facility, provides licensed care from one to ten plus children {See: Regulations for Licensing, State of Kansas}. There are three types of residential care facilities: Family Foster Homes; Group Boarding Homes, and, Residential Center. Family Foster Homes are exempt from the regulations of this ordinance.

Clear Sight Triangle - The clear sight triangle is an area of unobstructed vision at street intersections defined by the right-of-way lines at a given distance from intersecting streets.

Clinics - An establishment where patients who are not lodged overnight are admitted for examination or treatment by a group of medical or dentistry professionals. Clinic, as used in this definition, is not meant to include veterinary services.

Collector Street - A road which collects traffic from local streets and serves as the most direct route to a major highway facility.

Common Open Space - A lot or parcel of land or an area of water, or combination thereof, within a subdivision and intended for the use and enjoyment of the residents of the subdivision. Common open spaces



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do not include streets, alleys, off-street parking or loading areas or other facilities dedicated by the developer.

Community Service Organization - A nonprofit, voluntary association of persons who are *bona fide* members paying dues, which owns, hires or leases a building or premises, the use of which is restricted to members and their guests.

Comprehensive Plan - A long range master plan for the development of the area, including studies of land use, traffic volume and flow, schools, parks, public buildings, and other public facilities.

Concept Plan - An informal discussion plan for development which shows natural features, proposed lots and preliminary roads.

Conforming Building or Structure - Any building or structure which complies with all the regulations of this ordinance governing the zoning district in which such building or structure is located.

Congregate Housing - A dwelling unit specifically designed or adapted for use by a housekeeping unit under the supervision of no more than two permanent adult caretakers, and specially licensed by the appropriate Kansas agency to carry out social services.

Conservation Easement - An easement granting a right or interest in real property that is appropriate to retaining land or water areas in their natural state.

County - As used in this ordinance means Pottawatomie County.

Deck - A flat, floored roofless structure.

Density - The average number of persons per unit(s) of area. For example, persons per/square mile is a common density measure.

Decibel - A unit of measurement of sound intensities.

Drainage Facility - Any ditch, gutter, pipe, culvert, storm sewer, or other structure designed, intended, or constructed for the purpose of diverting surface waters from, or carrying surface waters off streets, public rights-of-way, parks, recreational areas, or any part of any subdivision or contiguous land areas.

Driveway - A minor vehicular right-of-way providing access between a street and a parking area or garage within a lot or parcel. A driveway is privately owned.

Dump or Sanitary Landfill - A district or section of land, legally designated as a sanitary landfill or disposal area by the County and/or State for purposes of disposal of used materials and refuse by land coverage.

Dwelling Unit - A building (not a vehicle), or a portion thereof, which provides complete living facilities for one family, meaning three or more rooms arranged for the use of one or more individuals living together as a single housekeeping unit, with rooms for (1) cooking, (2) living/sleeping, and (3) sanitary/bathing facilities. Facilities designed for one persons may arrange two rooms: (1) living/sleeping partitioned from the cooking area, and (2) sanitary/bathing facilities.

Dwelling Unit, Manufactured - As used in this ordinance, a "manufactured" dwelling unit refers to any portable dwelling produced after June 15, 1976 which does not meet all specifications and requirements for "residential design style manufactured dwelling units - Types 1 and II" given in the definition below. Units produced before June 15, 1976 shall be known as "mobile homes" and are permitted only in mobile homes parks or on operating farms. A manufactured



unit nor a mobile home shall be altered in an attempt to create a "residential design style manufactured home,"

Dwelling Unit, Single Family - For the purpose of this ordinance a single family dwelling unit shall mean a structure, or a portion of a structure, constructed for or adapted to permanent occupation for a single housekeeping unit. A housekeeping unit means one or more persons sharing common living facilities defined [dwelling unit] above. This definition does not include a recreation trailer, recreation vehicle, dormitories, or rooming houses, nursing homes, or congregate living facilities not exempted by Kansas Planning and Zoning Statutes.

Dwelling Unit, Type 1 - Residential Design - As used in this ordinance, a Type 1 residential design manufactured home means a factory constructed dwelling unit which has (1) a pitched roof with customary residential roofing material, (2) customary residential siding materials, (3) no less than 14 feet uniformly in width and, (4) a permanent (poured in place or filled/reinforced concrete block) perimeter foundation.

Dwelling Unit, Type 2 - Residential Design - As used in this ordinance, a residential design manufactured home means a factory constructed dwelling unit which has (1) a pitched roof with customary residential roofing material, (2) customary residential siding materials, (3) no less than 22 feet uniformly in width and, (4) a permanent (poured in place or filled/reinforced concrete block) perimeter foundation.

Easement - A limited service or right-of-way of use granted in private land for public or quasi-public purpose; authorization by a property owner of any designated part of his/her property for use by another for a specified purpose.

Encroachment - An extension beyond a required or established line.

Facade - The exterior wall of a building exposed to public view.

Feed Lot - An enclosure designed or used for the purpose of concentrated feeding or fattening of livestock for marketing.

Fence - A free standing structure of masonry, wood, chain link, or any combination thereof resting on or partially buried in the ground and rising above ground level used for confinement, screening or partition purposes.

Flood Plain - Land contiguous to lakes, streams, creeks, rivers, gullies and other water carrying entities which has a flood occurrence of 1% in any one year and is shown on the FEMA Flood Insurance Rate Maps for Pottawatomie County.

Floor Area Ratio - The floor area ratio of the building or buildings on any zoning lot is the floor area of the building or buildings on that zoning lot divided by the area of such zoning lot, or in the case of Planned Development by the net site area.

Fraternal or Service Clubs - A not for profit association formally organized for a common purpose for persons who are bona fide members paying annual dues, which owns, hires, or leases such premises.

Frontage - The length of the property line on one side of a street measured along the dividing line between the property and the street R.O.W.

Garage Sale - An occasional private sale where items accumulated during normal everyday living in a home are sold.



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Green Area - A seeded, natural growth, or landscaped area lying between a R.O.W. and a parking lot.

Group Home - A facility in a residential design building for the care and supervision of developmentally disabled and/or elderly persons according to guidelines provided by current Kansas Law.

Home Occupation - *See microenterprise*

Hospice - A medical facility, either in a commercial or residential building, for the care of terminally ill people, including accommodations for their families.

Hotel\Motel - A hotel\motel is an establishment which is open to transient guests as distinguished from a boarding house or rooming house. These facilities supply services such as maid service, furnishing and laundry or linens, telephones and secretarial or desk service.

Inoperable Vehicle or Equipment - A motor passenger vehicle, truck, bus, aircraft, or other motorized equipment or machine which is not in condition to be operated in a normal or customary manner, or any major parts thereof such as body, chassis, engine, frame, or the trailer portion of a tractor trailer rig.

Junk or Scrap Yard\Salvage Yard or Recycling Area - A junk or scrap yard\salvage area is any lot or area where waste, recycled or scrap material is bought, sold, stored, baled, exchanged, disassembled, or otherwise handled, including, but not limited to: Scrap iron and other material materials, paper, rags, rubber tires or scraps, bottles, and glass. A salvage yard includes an automobile wrecking yard.

Kennel (also Animal Sanctuary) - A kennel is any place, licensed or unlicensed, where more than four (4) adult dogs, more than one year old, are kept, boarded or trained, whether for commercial gain or as pets. This definition shall also include an Animal Sanctuary.

Landscaping - The improvement of an area with grass, earth works or earth forms, shrubbery and/or trees. Landscaping includes, but is not limited to: pedestrian walks, flower beds, ornamental objects such as water fountains, statuary, and other similar natural, artificial, or functional objects designed and arranged to produce an aesthetically pleasing effect on a site.

Livestock Sales Yard - An enclosure or structure designed or used for the purpose of holding livestock for sale or transfer by auction, consignment, or other means.

Limited Access Highway - A limited access road, or highway, or street is a right-of-way from which owners and occupants of abutting property have no right of access (except at those points and in such a manner as may be determined by the Planning Commission). Access limitation is placed on subdivision plats to indicate lots abutting a public road have no right-of-way except through internal or frontage drives.

Loading Area - A paved surface space on the same lot as the principal use providing for the loading or unloading of vehicles.

Local Street - A road designed primarily to provide access to abutting property; a road that is designed to carry traffic within a neighborhood or subdivision.

Lot - Land in common ownership and occupied or intended to be occupied by one principal building or group of principal buildings and their accessories. A lot is that land shown on a plat or other recorded instrument.



Lot Area - The total horizontal area included within the boundaries of the property lines. Gross lot area is the total sq. feet contain within the property lines; net lot area is the total sq. feet contained within the property lines minus (-) the sum of the areas of all buildings.

Lot, Corner - A corner lot is a lot at the junction of and fronting on two (2) or more intersecting streets.

Lot Coverage - That portion of the lot occupied by the principal and accessory uses, including all projections, expressed as a total of the lot area. Roads, driveways, pools, easements and parking areas are not included in the Lot coverage requirements.

Lot Depth - The distance between the front and the rear lot lines.

Lot, Flag - An interior lot having its only access to a public street by means narrow strip of land projecting to the R.O.W. Flag lots are prohibited unless waived by the County Planner.

Lot, Interior - An interior lot is any lot other than a corner or frontage lot.

Lot, Irregular - Any lot which does not have a generally rectangular shape.

Lot Line, Front - The front lot line shall be that boundary of a lot which is along an existing or dedicated public street, or where no public street exists, is along the surveyed property line.

Lot Line, Rear - The rear lot line shall be the boundary of a lot which is the most distant from and is, or most nearly, parallel to the front lot line.

Lot Line, Side - The side lot line shall be any boundary of a lot which is not a front lot line or a rear lot line.

Lot Split - The division of a lot or tract into two separate and distinct lots which does not involve the use of new easements.

Lot of Record - A lot of record is a lot which is part of a subdivision, the plat of which has been recorded in the office of the Register of Deeds for Pottawatomie County, or a parcel of land, the deed to which was recorded in the office of said Recorder of Deeds prior to January 31, 1980. Building permits shall be issued for lots of record created prior to January 31, 1980, regardless of existing regulations, but all lots are subject to floodplain regulations and certain sanitary requirements when total areas are 1/2 acre or less in size.

Lot, Reversed Corner - A reversed corner {frontage} lot is a tract extending between and having frontage on a collector or major street and a minor or local street with vehicular access solely from the latter. See Article 4.

Lot, Through - An interior lot having frontage on two (2) parallel or approximately parallel streets.

Lot Width - Lot width is the horizontal distance between the side property lines of a lot measured at the required front yard setback line.

Manufactured Home (Residential Design) - See Dwelling Unit, Residential Design - Types I & II

Manufactured Home, Sewer Riser Pipe - Sewer riser pipe means that portion of the sewer lateral which extends vertically to the ground elevation and terminates at each mobile home lot.



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Manufactured Home, Skirting - Skirting means the enclosing of the area between a mobile home and the ground with a material specifically designed by the manufacturer to obscure from view the chassis of the mobile home.

Manufactured Home, Water Riser Pipe - Water riser pipe means that portion of the water supply system serving a manufactured home park which extends vertically to the ground elevation.

Manufactured Home Park or Subdivision - Locations permitting mobile or manufactured homes, whether they are called parks, communities or subdivisions or other terms, shall be analogous and used to identify any area where the primary purpose is 1) to rent space and facilities for accommodating manufactured homes on a temporary or permanent basis, 2) or, in the case of subdivisions, any lots, tracts or areas of land which are sold for the purpose of accommodating mobile homes.

Manufactured Home Park License - A written license issued by the Pottawatomie County Zoning Administrator permitting a person to operate and maintain a mobile homes park under the provisions of these resolutions.

Microenterprise- *A commercial enterprise limited to 800 square feet, one employee in addition to the property owner, and is open to the public on a very limited scale. Microenterprises are entitled to a monument or wall sign no larger than 16 square feet. Microenterprises may include woodworking, breweries, wineries, distilleries, textiles, ceramics, metalwork, professional offices, food production, salons, and other similar uses. In no cases are dining, bar, or similar seating areas permitted as part of a microenterprise.*

Mobile Home - A transportable (not RV) dwelling unit built prior to June 15, 1976, that is 600 sq. feet or larger, and designed to be used as a year-round residential dwelling (see definition of a dwelling unit and Department of Housing and Urban Development's Minimum Structure Code), and constructed pursuant to 42 USC 5403. A mobile home is only permitted on an operating farm of 40 acres or more for the owner, relative, or employee, in a manufactured homes park, or in an area designated in the County Plan.

Moderate Burning - Implies a rate of combustion described by material which supports combustion and is consumed slowly as it burns.

Multi-Family Dwelling - A building containing more than four (4) dwelling units.

Net Site Area - The total area, given in square feet, of all lots within a subdivision not including the area of R.O.W.'s.

Non-Conforming Lot of Record - A lot of record which does not comply with the area requirements for any permitted use in the district in which it is located.

Modular Home - A structure which has been assembled at a factory in parts or in complete units, other than mobile homes.

Non-Conforming Use - Non-Conforming means the use of land, buildings or other structures lawfully existing at the time of this ordinance, but because of the adoption of new regulations, does not conform to the minimum requirements necessary for the issuance of a building permit. A nonconforming use is a property right which runs with the land {from owner to owner} and cannot be lost except through abandonment or conversion {see exceptions for signs in this ordinance}.



Noxious Matter or Material - Material or matter which is capable of causing injury to living organisms by chemical reaction, or is capable of detrimental effects on the physical or economic well-being of individuals.

Nude or Nudity - Nude or a "state of nudity" means the showing of the human male or female genitals, public area, vulva, anus, anal cleft or cleavage with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple or the showing of the covered male genitals in a discernibly turgid state.

Odorous Matter - Any material or matter that yields an odor which is offensive in any way.

Parking Space - A designated, prepared space available for the parking of one (1) motor vehicle, and having an area of not less than one hundred eighty (180) square feet exclusive of passageways and driveways appurtenant thereto, and having direct access to a street or travel easement.

Performance Standard - A criteria established to control noise, odor, toxic or noxious matter, vibration, fire and explosion hazards, or glare or heat generated by or inherent in uses of land and buildings.

Person - A Person, for the purpose of this Ordinance, shall mean every natural person, firm, partnership, association, social or fraternal organization, corporation, trust, receiver, estate, syndicate, branch of government, or any group or combination acting as a unit.

Place of Worship - A facility or institution which people regularly attend to participate in or hold religious services, meetings, or other activities. A "place of worship," for the purpose of this ordinance, shall only mean a building which has been specifically constructed or adapted to a place of assembly, and not a dwelling unit or commercial structure.

Planning Commission - Means the Pottawatomie County Planning Commission.

Plat - Is a map of survey together with all information and certificates required in this Unified Development Resolutions.

Plat, Final - A map of lots, streets and boundaries recorded by the Register of Deeds, which contains all required engineering and survey detail, prepared in accordance with this Regulations.

Plat, Preliminary - A tentative, formal subdivision plan in lesser detail than the final plat showing salient features as required by these Regulations. See also Final Plat.

Public Sewer and Water System - Any system, other than an individual septic tank or tile field, or individual well, operated by a municipality or other governmental agency or a public utility for the disposal of wastes or the furnishing of potable water.

Quarry, Sand Pit, Gravel Pit, Top Soil Stripping - A lot or parcel or tract, or a portion thereof, used for the purpose of extracting stone, sand, gravel or top soil for sale, as an industrial operation, and exclusive of the process of grading a lot preparatory to the construction of a building for which application for a permit has been made.

Re-Subdivision or Replat - A change in a recorded plat which alters lot lines, roads, easements or other property rights; or, adds unplatted or vacant land; or, vacates a lot from the plat.



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Recreation Facility - A facility which provides leisure opportunities. For the purpose of this ordinance, leisure shall include play, sports, picnic, equestrian activities, celebrations, concerts, accessory sales to service guests, beverage and cereal malt beverages to guests {not the transient public}, gun or archery sports, music and outdoor worship.

Recreational Vehicle/Trailer - A recreational trailer is a towed vehicle used for temporary habitation; an "RV" or recreation vehicle is any self-powered vehicle manufactured and designed, or redesigned after manufacture, for the purpose of human habitation and comfort. Neither a trailer nor an "RV" shall be construed to mean a mobile or "a manufactured home."

Right-of-Way - A strip of land occupied or intended to be occupied by a street or travel easement, or other officially designated uses. 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 recorded plat is to be separate and distinct from lots or parcels adjoining such right-of-way, and not included with the dimensions or areas of such lots or parcels.

Road Surface - The surfaced portion of a right-of-way used for vehicular traffic.

Rural Tourism - A commercial enterprise intended to attract visitors to the countryside for entertainment or educational purposes. A rural tourism enterprise may not necessarily take place on a working farm or ranch, and may not necessarily provide income that is supplemental to the farm or ranch owner or operator.

Screening - Fencing with or without shrubs or coniferous vegetation maintained for the purpose of concealing from view the area behind such structures. All fencing shall be constructed from weather resistant or treated wood or equivalent materials. If the fence is used as a security barrier, chain link with inserted wood slats may also be employed. Either a six or an eight foot separation must be used between upright wooden poles inserted to at least a depth of three (3) feet.

Normal height for a screening fence shall be six (6) feet from ground level, but an adjustment in height due to an uneven adjacent grade or the stacking height of materials to be screened may be required by the County Planner (up to a total maximum height of ten (10) feet.)

The planting of new vegetation shall not be considered to be an allowable screen under this definition. However, transplanting new {mature} or existing {mature} vegetation composed mainly of coniferous shrubs and trees, may qualify for one or more perimeters of a required screening fence, if the County Planner determines that the vegetation forms an effective screen.

Screening, by both fencing and plantings, requires prior approval of the County Planner and the Planning Commission through a sketch plan or Site Plan in all circumstances.

Semi-Nude (Semi-Nude Condition) - Means the showing of the female breast below a horizontal line across the top of the areola as its highest point or the showing of the male of female buttocks. Such term shall include the lower portion of the female human breast, but shall not include any portion of the cleavage of the human female breast, exhibited by a dress, blouse, leotard, bathing suit or other wearing apparel provided the areola is not exposed in whole or in part.

Setback - The setback is the minimum horizontal distance between the front line of the building or structure and opposing property line. When the legal description of a piece of property goes to the center of a road or highway, the front property line shall be considered to be the



line that coincides with the easement right-of-way of said road or highway

Sign - A sign as used in this ordinance and throughout its various sections, is a name, identification, device, structure or object which is affixed to, painted or represented directly or indirectly upon a building, structure, a tree, rock, a piece of land, or other natural object and which directs attention to an object, person, product, place, activity, institution, organization or business. A sign shall not be deemed to include any display or any official notice of any state, county, municipality, township, federal or state government or any agency thereof, nor any official traffic control device, nor shall it include the flag, emblem or insignia of a nation, state, county, municipality or township, school or religious organization. A sign shall not be deemed to include a device located completely within an enclosed building. In this ordinance a sign also includes banners and aerial balloons or similar devices.

Site Plan - A plan, prepared to scale, showing accurately and with all buildings, structures, uses, parking, and principal site development features proposed for a specific parcel of use.

Slope - Slope is the face of an embankment or cut section or any ground whose surface makes an angle with the plane of the horizon. Slopes are expressed ordinance as a percentage based upon linear vertical distance in feet per 100 feet of horizontal distance.

Sound Level Meter - A device for measuring the intensity or force of sound in decibel units.

Stable, Private - An accessory building in which horses are kept.

Stable, Public - A principal or accessory building in which horse are kept, boarded, leased, rented or sold as a commercial business.

Story - A story is that part of any building comprised between any floor or roof next above. A half-story is a story under a sloping roof at the top of the building the floor of which is not more than two (2) feet below the intersection of the vertical wall and the roof structure. A single story shall not exceed fifteen (15) feet as a maximum height dimension.

Stream - Any water course with an identifiable bed and bank, and facultative wet vegetation, and/or hydric soil indicators.

Subdivision - The division of land, lot, tract, or parcel into two or more lots, parcels, plats, or sites, or other divisions of land for the purpose of sale, lease, offer, or development, whether immediate or future. The term shall also include the division of residential, commercial, industrial, agricultural, or other land whether by deed, metes and bounds description, lease, map, plat or other instrument.

Subdivision, Rural - A subdivision which is served by individual wastewater treatment systems that will typically be comprised of low density, large-lot development.

Subdivision, Urban - A subdivision that is served by both a public water and public sewer system which will typically consist of higher density residential, commercial, or industrial uses.

Tent - A tent is any structure or enclosure, the roof of which and/or one-half or more of the sides are constructed from a fabric. A tent is not consider to be a dwelling unit.

Theater, Moving Picture - A building or structure, together with land and any accessory buildings devoted entirely or in part to the showing of motion pictures for monetary or other valuable consideration.



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Tiny House - Any dwelling unit under 500 square feet, either on wheels or a foundation, that is residential in design. If a tiny house is on wheels, those wheels must be hidden from view by skirting or some other material. A tiny house does not include a manufactured home.

Topographic - A term used to indicate changes in elevation or gradient on land in increments of one, two or five or more feet.

Tourist Camp - A tourist camp, which is classified as special recreation in this ordinance, is land used, or intended to be used, by persons in recreation vehicles or habitable trailers, and offered by the owner of such land for monetary consideration or other such valuable consideration.

Trailer - A trailer is any vehicle or portable structure specifically designed to haul goods, animals, livestock or sundries, and constructed or redesigned to be mounted on wheels and used as a means of conveyance on the streets and highways, not propelled or drawn by its own motive power.

Transportation Corridor - As used in this ordinance, a transportation corridor is limited to U.S. Highway 24, and Kansas State Highways 13, 16, 99, and 63.

Vehicle Sales - A building or parcel of land used for the sale or storage of new and used cars/trucks/RV's/ and other motor vehicles in operating condition.

Window - An opening to the outside of a building or structure other than a door, which provides all or part of the required natural light, natural ventilation or both to an interior space. The glazed portion of a door in an exterior wall may be construed to be a window.

Wind Energy Turbine Small - Any wind turbine capable of producing no more than 100 KW of electricity with a total height no greater than 50 feet and sited at least 50 feet from the nearest property line.

Wind Energy Turbine Community - Any wind turbine capable of producing more than 100 KW of electricity but less than 50 MW of electricity and is setback at least the total height of the device from the property line.

Wind Energy Turbine Large - Any wind turbine capable of producing more than 50 MW of electricity and is setback at least the total height of the device from the property line.

Wind Energy Turbine Farm - Any large wind energy turbine or any group of wind energy turbines located on the same tract of land and capable of producing more than 50 MW of electricity and is sited at least the total height of the device from the nearest property line.

Wind Energy Turbine, Height - The distance from the lowest part of the grade at the base of the structure to the highest point of the blades

Yard - An open space on a lot which is unobstructed from the ground upward except as otherwise provided for in these Regulations.

Yard, Front - The space between the property line or R.O.W. and the principal entrance to a habitable structure.

Yard, Rear - A yard most nearly parallel to the front lot line; a required separation area between any structure and the rear lot line.

Yard, Side - A yard between the front and rear yard measured from the horizontal at right angles from the side lot line to the nearest point of the building or structure.



Zero Lot Line - A term used to describe a planned arrangement of buildings which touch lot lines, thereby providing zero yard on that side.

Zoning District - A zoning district is an area or areas within the limits or jurisdiction of the County of Pottawatomie for which these regulations and requirements governing use, lot, and bulk and height of buildings, structures and premises are uniform.

Zoning Lot - A zoning lot is the minimum specified parcel of land that can be used for a principal use under the terms of these Regulations



