

# **ZONING REGULATIONS, SUBDIVISION REGULATIONS & FLOODPLAIN MANAGEMENT REGULATIONS**

for

**CITY OF OSAWATOMIE, KANSAS**

CITY OF OSAWATOMIE LAND DEVELOPMENT ORDINANCE

Official Copy as Incorporated by Reference by Ordinance No. 3715

Public Hearing by the Osawatomie Planning Commission May 29, 2013

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

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

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



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**ARTICLE 1 – TITLE AND INTENT**

1. Title: These regulations, including the zoning district maps made a part hereof, shall be known and may be cited and referred to as the “City of Osawatomie Zoning Regulations,” and as “these regulations.”
2. Intent: These regulations, adopted pursuant to the provisions of K.S.A. 12-741, et. seq., are intended to serve the following purposes:
  - A. To promote the health, safety, morals, comfort and general welfare of the City;
  - B. To preserve and protect property values throughout the City;
  - C. To restrict and regulate the height, number of stories, and size of structures; the percentage of lot coverage; the size of yards, courts, and other open spaces; and the density of population;
  - D. To divide the City into zones and districts; and
  - E. To regulate and restrict the location and use of structures and land within each district or zone.

***Article 1 - Title and Intent***

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## ARTICLE 2 – RULES AND DEFINITIONS

1. Rules of Construction and Interpretation:

A. Rules:

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

B. Interpretation:

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

***Article 2 - Rules and Definition***

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

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

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

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

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

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

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

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

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

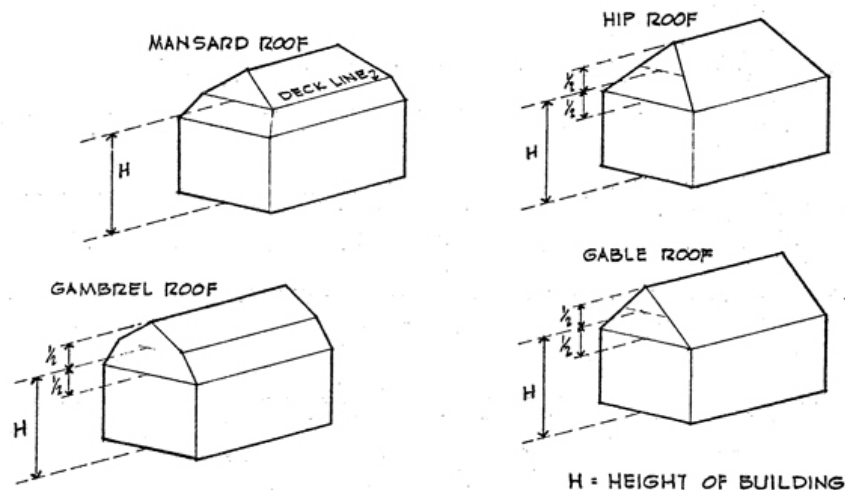
**Arcade:** Any establishment displaying for public patronage or keeping for operation four or more amusement devices including, but not limited, to pool tables, air hockey tables, “pong” games, mechanical rides for children, electronic games and shooting gallery games.

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

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

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

**Building Height:** As Illustrated below:



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

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

***Article 2 - Rules and Definition***

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

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

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

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

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

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

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

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

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

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

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

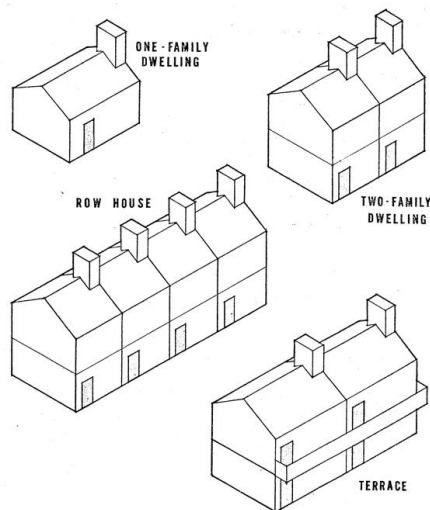
**Dwelling:** A structure or portion thereof, not including manufactured homes, which is designed and used exclusively for residential purposes.

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

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

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

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



***Article 2 - Rules and Definition***

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

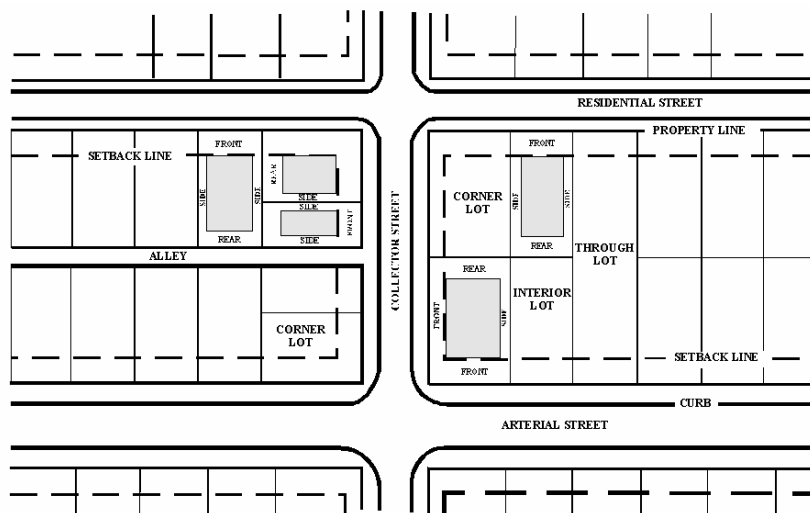
**Lot Coverage:** That portion of the net site area which is covered by the ground floor of any structure, parking lots, and private streets and drives. Pools, tennis courts, sidewalks and plazas are not counted toward lot coverage.

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

## CITY OF OSAWATOMIE - ZONING REGULATIONS

### Article 2 - Rules and Definition

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



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

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

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



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

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

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

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

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

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

***Article 2 - Rules and Definition***

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

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

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

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

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

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

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

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

**Recreational Vehicle:** See Travel Trailer.

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

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

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

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

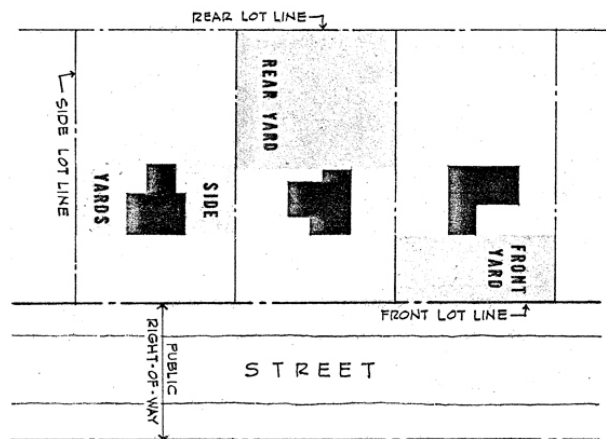
**Sanitary Landfill:** A lot or parcel of land used primarily for the disposal and burial of garbage, sewage, trash, refuse, junk, discarded machinery or motor vehicles or parts thereof, or other waste.

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

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

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

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



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

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

***Article 2 - Rules and Definition***

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

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

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

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

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

**Street Network:**

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

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

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

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

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

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

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

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

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

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

**Townhouse Structure:** A grouping of three or more townhouses.

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

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

**Travel Trailer or Recreational Vehicle:** A vehicular-type unit primarily designed as temporary living quarters for recreational, camping or travel use, which either has its own motive power or is mounted on or drawn by another vehicle, (b) are mass manufactured and sold to the public as such, and (c) have self-contained resources that allow the unit to be lived in and operated at various locations without connections to utilities for several days. Examples are travel trailers, camping trailers, truck campers, and motor homes. Manufactured homes, modular homes, individually built travel trailers or recreational

## **CITY OF OSAWATOMIE - ZONING REGULATIONS**

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### ***Article 2 - Rules and Definition***

vehicles not meeting traditional market specification, converted school buses or other vehicles not originally designed as recreational vehicles or travel trailers, and tiny homes on or off trailers, shall not be considered travel trailers or recreational vehicles.

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

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

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

## ARTICLE 3 – GENERAL PROVISIONS

1. Jurisdictional Area: The provisions of these regulations shall apply to all structures and land in the incorporated area of the City of Osawatomie, Kansas. The jurisdictional area shall be shown on the Official Zoning District Map.
2. Establishment of Districts: The jurisdictional area is hereby divided into nine zoning districts which are designated as follows:
  - “AG” Agricultural District
  - “R-1” Residential - Low Density District
  - “R-2” Residential - Medium Density District
  - “R-3” Residential - High Density District
  - “MH” Manufactured Home Park District
  - “C-B” Central Business District
  - “G-B” General Business District
  - “I-1” Light Industrial District
  - “I-2” Heavy Industrial District
  - “POD” Planned Overlay District
3. Table of Equivalent Districts: The Zoning Districts herein are hereby equivalent to similar Zoning Districts adopted under prior regulations as follows:

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

## **CITY OF OSAWATOMIE - ZONING REGULATIONS**

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### ***Article 3 - General Provisions***

4. Zoning Districts Map: The boundaries of the districts are shown on the Official Zoning District Map, which is filed in the office of the City Clerk. Each of the said zoning maps, with all notations, references, and other information shown thereon, is as much a part of these zoning regulations as if such notations, references, and other information were specifically set forth herein. Such map shall be marked, "Official Copy of the City of Osawatomie, Kansas Zoning Districts Map."
5. Rules Where Uncertainty May Arise: Where uncertainty exists with respect to the boundaries of the various districts as shown on the Official Zoning Districts Map, incorporated herein, the following rules apply:
  - A. The district boundaries are the centerlines of streets, alleys, waterways, and railroad rights-of-way, unless otherwise indicated; and where the designation of a boundary line on the zoning map coincides with the location of a street, alley, waterway, or railroad right-of-way, the centerline of such street, alley, waterway or railroad right-of-way shall be construed to be the boundary line of such district.
  - B. Where the district boundaries do not coincide with the location of streets, waterways, or railroad rights-of-way but do coincide with lot lines, such lot lines shall be construed to be the boundary of such district.
  - C. Where none of the above rules apply, the district boundaries shall be determined by the use of the scale shown on the zoning map.
4. Exemptions: The following structures and uses shall be exempt from the provisions of these regulations:
  - A. Poles, wires, cables, conduits, vaults, laterals, pipes, mains, valves, or other similar equipment for the distribution to consumers of telephone or other communications, electricity, gas, or water, or the collection of sewage or surface water operated or maintained by a public utility, but not including substations located on or above the surface of the ground.
  - B. Railroad tracks, signals, bridges, and similar facilities and equipment located on a railroad right-of-way, and maintenance and repair work on such facilities and equipment.
  - C. Agriculture as defined by these regulations. In the event that any structure or land ceases to be used only for agriculture, then such structure or land shall be subject to the applicable regulations of these regulations.
  - D. Retaining walls on public property.



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

## **CITY OF OSAWATOMIE - ZONING REGULATIONS**

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### ***Article 3 - General Provisions***

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

8. Severability: It is hereby declared to be the intention of the City that the several provisions of these regulations are separable, in accordance with the following rules:

- A. If any court of competent jurisdiction shall adjudge any provision of these regulations to be invalid, such judgment shall not affect any other provisions of these regulations.
- B. If any court of competent jurisdiction shall adjudge invalid the application of any provision of these regulations to a particular property or structure, such judgment shall not affect the application of said provisions to any other property or structure.

9. Reservations and Repeals: Upon the adoption of these regulations by the City Council, Ordinance #3576 establishing zoning regulations in the City of Osawatomie, and all amending zoning ordinances, shall be repealed.

10. Vested Rights:

- A. For the purpose of single-family residential development in the “AG”, “R-1”, “R-2”, or “R-3” districts, development rights for land shall vest upon recording of the final plat for such land. If construction has not begun within five years of recording the plat, the development rights shall expire unless an extension is granted.
- B. For all non-single-family development, development rights for land shall vest upon the recording of a final plat or approval of the site plan or specific construction documents for such land. If all permits required for such development have not been issued and the start of construction and the completion of substantial amounts of work under the validly issued permits has not begun within one year of approval of the site plan, the development rights shall expire unless an extension is granted.
- C. The Planning Commission may for good cause as presented by the applicant grant a single extension of vested rights. Vested rights for single-family development shall not be extended for more than one year. For all non-single-family development, an extension of not more than 6 months may be granted. Applicants seeking an extension shall submit a statement in writing, justifying the extension. In considering an extension, the Planning Commission shall consider the following factors, as well as other relevant considerations:
  - (1) Undue or unnecessary hardship placed upon the property owner;
  - (2) The extent to which the current regulations would hinder to complete development;

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

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

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

***Article 3 - General Provisions***

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## ARTICLE 4 – DISTRICT REGULATIONS

### **“AG” AGRICULTURAL DISTRICT**

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

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

***Article 4 - District Regulations***

**“R-1” RESIDENTIAL - LOW DENSITY DISTRICT**

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

**“R-2” RESIDENTIAL - MEDIUM DENSITY DISTRICT**

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

***Article 4 - District Regulations***

**“R-3” RESIDENTIAL - HIGH DENSITY DISTRICT**

1. Intent: The intent of this district is to provide for higher density residential development, including single-family, two-family, and multi-family dwellings, in a manner that will encourage a strong residential neighborhood.
2. Permitted Uses: Generally, single-family dwellings, two-family dwellings, multi-family dwellings, manufactured homes, nursing homes, boarding houses, parks, educational and religious uses are permitted. For a general listing of permitted and conditionally permitted uses by Land Based Classification System (LBCS) groupings, see Appendix “A” of these regulations. The permitted uses will be determined based on compatibility with other uses permitted in the district and with listed LBCS groupings in the Appendix “A”.
3. Special Uses: For a general listing of special uses, see Appendix “A”.
4. Intensity of Use Regulations: Except as modified by the provisions of Article 5:
  - A. Minimum Lot Area: Multi-family: 1,500 square feet per dwelling unit.  
Nursing Homes and Boarding Homes: 500 square feet per occupant.  
Other uses: 5,000 square feet.
5. Height Regulations: Maximum Structure Height: 45 feet.
6. Yard Regulations: Except as modified by the provisions of Article 5, minimum yard depths shall be as follows:
  - A. Front Yard: 30 feet.
  - B. Side Yard: 5 feet, except as provided in Article 5, 2, Yard Regulations.
  - C. Rear Yard: 20 feet.
7. Use Limitations: See supplementary district regulations. For multifamily residential development, common open space shall be provided as approved on each site plan.
8. Site Plan Review: Development in the “R-3” District shall be subject to site plan review requirements and procedures.



**“R-4” MANUFACTURED HOME PARK RESIDENTIAL DISTRICT**

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

***Article 4 - District Regulations***

**“C-B” CENTRAL BUSINESS DISTRICT**

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

**“G-B” GENERAL BUSINESS DISTRICT**

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

***Article 4 - District Regulations***

**“I-1” INDUSTRIAL - DISTRICT**

1. Intent: The intent of this district to permit a restricted range of business park and industrial uses, including storage and to address issues of multiple tenancy compatibility through Site Plan Review, as well as compatible development with adjacent districts. This district allows office and light industries.
2. Permitted Uses: Generally, light manufacturing, wholesaling, trucking and warehousing uses, as well as research, development, analysis or testing laboratories as a part of product development centers, testing facilities or research centers. For a general listing of permitted and conditionally permitted uses by Land Based Classification System (LBCS) groupings, see Appendix “A” of these regulations. The permitted uses will be determined based on compatibility with other uses permitted in the district and with listed LBCS groupings in the Appendix “A”.
3. Special Uses: For a general listing of special uses, see Appendix “A”.
4. Intensity of Use Regulations:
  - A. Minimum Lot Area: 6,000 square feet.
  - B. Minimum Lot Width: 50 feet.
5. Height Regulations: Maximum Height of Structure: 35 feet.
6. Yard Regulations: Except as modified by the provisions of Article 5, minimum yard depths shall be as follows:
  - A. Front Yard: 20 feet.
  - B. Side Yard: 10 feet.
  - C. Rear Yard: 20 feet.
7. Use Limitations: See supplementary district regulations.

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

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

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

***Article 4 - District Regulations***

**“I-2” HEAVY INDUSTRIAL - DISTRICT**

1. Intent: The intent of this district to permit a broad range of more intense industrial uses and to address issues of potential obnoxious appearance, noise, emissions, or odor through Site Plan Review because they require careful site planning to be compatibly developed with adjacent districts. This district allows basic or primary industries.
2. Permitted Uses: Generally, heavy manufacturing, trucking and warehousing uses, as well as salvage and wrecking uses. For a general listing of permitted and conditionally permitted uses by Land Based Classification System (LBCS) groupings, see Appendix “A” of these regulations. The permitted uses will be determined based on compatibility with other uses permitted in the district and with listed LBCS groupings in the Appendix “A”.
3. Special Uses: For a general listing of special uses, see Appendix “A”.
4. Intensity of Use Regulations:
  - A. Minimum Lot Area: 6,000 square feet.
  - B. Minimum Lot Width: 50 feet.
5. Height Regulations: Maximum Height of Structure: 35 feet.
6. Yard Regulations: Except as modified by the provisions of Article 5, minimum yard depths shall be as follows:
  - A. Front Yard: 20 feet.
  - B. Side Yard: 10 feet.
  - C. Rear Yard: 10 feet.
7. Use Limitations: See supplementary district regulations.

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

  - A. A solid wall at least six feet high, but not more than eight feet shall be installed adjacent to any residential district.
  - B. Facilities Used for Agricultural Research, Testing and/or Analysis shall meet use limitations in I-1 District limitations.

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

***Article 4 - District Regulations***

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## ARTICLE 5 – SUPPLEMENTARY DISTRICT REGULATIONS

1. Height Regulations: Chimneys, cooling towers, elevator head houses, fire towers, grain elevators, monuments, stacks, stage towers, or scenery lofts, tanks, water towers, ornamental towers, spires, church steeples, and necessary mechanical appurtenances, usually required to be placed above the roof level and not intended for human occupancy, are not subject to the height limitations contained in the District Regulations. In all districts, one (1) additional foot of height above the specified height limitation shall be permitted for each foot of additional yard provided over the minimum requirement on all sides of the lot.
2. Determination of Structure Setback Lines: The structure setback line shall be determined by measuring the horizontal distance between the property line and the vertical plane of the furthest architectural projection of the existing or proposed structure; except that certain architectural projections listed below may extend beyond the structure setback line, subject to the following conditions:
  - A. Projections for new construction shall conform to the provisions of the adopted building codes in effect at the time of application, with regard to construction details, property setbacks and public property encroachment.
  - B. Projections shall be defined as: Any structural or non-structural portion or appendage attached to the main structure which by design protrudes outward beyond the structure floor, wall, roof or foundation line. Projections include, but are not limited to:

(1) Roof Eaves	(6) Bay and Egress Windows
(2) Cornices	(7) Combustible or Noncombustible Ornamentation
(3) Open Porches	(8) Soffits
(4) Stairs	(9) Balconies
(5) Dormers	(10) ADA Compliant Ramps
  - C. Exceptions for ADA Ramps, Open Porches, and Canopies and Awnings: An ADA-compliant ramp may be permitted to extend into a required yard setback, an open porch in required yards, and a canopy or awning may be permitted to intrude into or overhang a public right of way provided that:
    - (1) The ADA ramp is to be built to the minimum intrusion into the required yard setback practicable while still in conformance to accessibility standards.
    - (2) Open Porches for residences may be built into the required front or rear yard not more than six feet, and may be covered with a roof or canopy not exceeding the footprint of the open porch.

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

3. Yard Adjustments:

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

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

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

4. Principal Structures:

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

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

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

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

# CITY OF OSAWATOMIE - ZONING REGULATIONS

## Article 5 - Supplementary District Regulations

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- G. **Garage Sales:** The sale of used or second-hand merchandise shall be permitted in any residential district providing that such use shall not exceed three consecutive days in duration, nor occur more than four (4) times during a 12 month period at one residence.
- H. **Vessels for collection of recyclable** shall be setback from all required yards and screened from view of all rights-of-way and adjacent property lines.
- I. **Camping Trailers and Recreational Vehicles:** Camping Trailers, defined as vehicular type units primarily designed as temporary living quarters for recreational camping or travel uses and which have their own motive power, may be temporarily used as an overnight residence in areas of the City which are not considered camp grounds or trailer parks. Such use is within the discretion of the Codes Official and will only be granted under the following circumstances.
  - (1) The owner of the property where the camping trailer or recreational vehicle will be located, or their designated representative, obtains a permit for the camping trailer or recreational vehicle from the Codes Official, which permit will specifically designate the approved location for the trailer or vehicle and, if available, any connections to water and sewer pipes; and
  - (2) Such permit does not exceed seven (7) days, and may only be renewed once for an additional seven (7) day period; and
  - (3) The property owner, or their designated representative, pays a fee of \$15 for the permit, and an additional fee in the same amount for any renewal; and
  - (4) Such permit is conspicuously displayed on the trailer or recreational vehicle so that it can be seen from the outside by the Codes Official; and
  - (5) In the event that no sewer connection is available and approved by the Codes Official, the property owner, or their designated representative agrees that no waste materials other than ordinary bagged garbage will be released from the trailer or recreation vehicle for the duration of the unit's stay. The property owner, or their designated representative, also agrees that any such bagged garbage will be properly disposed of by placing it from the trailer or vehicle into the property owners garbage receptacles; and



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

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

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

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- E. Decorative fencing and walls in front yards shall be located no closer than one foot to any public or private street right-of-way, conform to sight triangle requirements, and shall meet the following standards:
  - (1) Present at least 50% opacity as viewed from the public street,
  - (2) Not connect with any other fence or wall on the property, and, for other than industrial uses, and
  - (3) Constructed of one or more of the following types of materials: brick or stone walls, split rail, wood rail, wrought iron, or spaced picket fence.
- F. All fences and walls that are broken or missing shall be promptly repaired or replaced, and painted portions kept free of chipping or peeling paint.
- G. All fences and walls shall be constructed with a finished surface facing outward from the property (e.g., in the case of a wooden fence, a "finished surface" means a surface of the fence where the pickets or slats are fully exposed to view). The posts and support beams shall be on the inside of the finished surface or shall be designed as an integral part of the finished surface. Provided, however, that where the Building & Zoning Official his/her designee determine that there are practical difficulties in complying with this standard, the fence posts may be outside the finished surface.
- H. In all commercial and industrial districts, a fence or wall may be constructed on any side or rear property line but shall not be located in any required front yard setback or be closer to any public or private street than the required setback for a building. All fences and walls shall be constructed with a finished side facing outward from the property. The posts and support beams shall be on the inside of the finished surface or shall be designed as an integral part of the finished surface.
- I. Retaining walls (excluding wing walls) may be permitted where they are reasonably necessary due to the topography of the lot, where the wall is located at least 1 foot from any street right-of-way, and where the wall does not extend more than 6 inches above the ground level of the land being retained.

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

- A. Restrictions and Limitations:

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- (1) The home occupation shall be incidental and subordinate to the principal residential use of the premises and, except for home day care, not more than 25 percent of the floor area of any one floor of a dwelling unit shall be utilized for a home occupation.
  - (2) All materials or equipment used in the home occupation shall be stored within an enclosed structure.
  - (3) No alteration of the exterior of the principal residential structure shall be made which changes the character thereof as a dwelling.
  - (4) No sign shall exceed two (2) feet in any one direction, shall not be illuminated and shall not be placed closer to the front property line than one-half the distance of the front yard.
  - (5) No person shall be engaged in such home occupation other than a person occupying such dwelling unit as a residence, and not more than one non-resident full-time equivalent employee.
  - (6) No equipment shall be utilized that creates a nuisance due to noise, odor, emissions or electrical interference.
  - (7) Vehicular traffic generated by the business shall not be abnormal for local residential traffic volumes and vehicular types.
  - (8) On-site exchange of goods, other than subordinate to and in support of permitted on-site services, shall not be permitted.
- B. Particular Home Occupations Permitted: Customary home occupations include, but are not limited to, the following list of occupations subject to restrictions and limitations:
- (1) Art, dancing, and music schools provided that instruction is limited to five pupils at one time.
  - (2) Professional offices for architects, engineers, planners, lawyers, accountants, bookkeepers, and similar professions.
  - (3) Offices for realtors, insurance agents, brokers, sales representatives, and manufacturing representatives when no exchange of tangible goods is made on the premises.
  - (4) Barber and beauty services.
  - (5) Watch, clock, and jewelry repair services.
  - (6) Radio, television, phonograph, recorder, and small appliance repair services.
  - (7) Day care center in a residence, in compliance with licensure under state law.

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

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

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

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

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

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## **ARTICLE 6 – OFF-STREET PARKING AND LOADING REGULATIONS**

1. Applicability: Off-street parking and loading space, as required in this article, shall be provided for all new structures, and for alterations and additions to existing structures. Off-street parking and loading space shall be required for any existing structure or structure which is altered in any manner so as to enlarge or increase capacity by adding or creating dwelling units, guest rooms, floor area or seats. Existing parking area previously required shall not be used to satisfy required off-street parking for any new structures, alterations, or additions to existing structures or uses of land. Such existing parking space shall be maintained and shall not be reduced so long as the main structure or use remains, unless an equivalent number of such spaces are provided elsewhere as provided in this article.
2. General Provisions:
  - A. Utilization: Required accessory off-street parking facilities provided for the uses hereinafter listed shall be solely for the parking of motor vehicles in operating condition of patrons, occupants, or employees of such uses.
  - B. Residential Districts: Spaces shall be provided in other than the front yard in all residential districts, except that in the event an attached garage is converted to a livable room of the dwelling, the parking space may occupy the existing concrete or asphaltic drives when located within the required front yard.
  - C. Front Yard Setbacks: Unless excepted by site-plan review, off-street parking spaces shall be provided in other than the front yard in all districts, except that in the event an attached garage is converted to a livable room of a dwelling, the parking space may occupy the existing concrete or asphaltic drives when located within the required front yard.
  - D. Accessory Use: Off-street parking shall be considered as an accessory use of the use for which the parking is provided. Parking not located on the same tract on which the main use is located must be located within the zoning district in which parking or storage lots are permitted as a main use; or be located in accordance with the provisions of this article relating to off-street parking exceptions. In no instance shall off-street parking required by this article be located more than 300 feet (as measured along lines of public access) from the use that it serves.
  - E. Repair Service: No motor vehicle repair work or service of any kind shall be permitted in association with any off-street parking facilities.

## **CITY OF OSAWATOMIE - ZONING REGULATIONS**

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### ***Article 6 - Off-Street Parking and Loading Regulations***

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

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

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



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**CITY OF OSAWATOMIE - ZONING REGULATIONS**  
***Article 6 - Off-Street Parking and Loading Regulations***

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

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

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

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

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

***Article 6 - Off-Street Parking and Loading Regulations***

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

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

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

A. Dwelling and Lodging Uses:

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

B. Business, Commercial, and Industrial Uses:

## **CITY OF OSAWATOMIE - ZONING REGULATIONS**

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### ***Article 6 - Off-Street Parking and Loading Regulations***

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

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

C. Other Uses:

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

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### ***Article 6 - Off-Street Parking and Loading Regulations***

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(8) Swimming pools and clubs: One parking space for each 50 square feet of water area.

(9) Trade and commercial schools: One parking space for each three students and employees.

#### **7. Special Uses:**

A. District Permitted: In order to provide off-street parking areas, the Planning Commission may, after public notice and hearing, grant as a special use the establishment of parking areas in any zoning district under the provisions further set forth in this section.

B. Location: Parking provided under this section must be within 300 feet (along lines of public access) from the boundary of the use for which the parking is provided.

C. Use: The parking area shall be used for passenger vehicles only, and in no case shall it be used for sales, repair work, storage, dismantling or servicing of any vehicles, equipment, materials, or supplies. Only such signs as are necessary for the proper operation of the parking lot shall be permitted.

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

#### **A. Spaces Required:**

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

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

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

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## ARTICLE 7 – SIGN REGULATIONS

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

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

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

4. Classification of Signs:

A. Functional Types:

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

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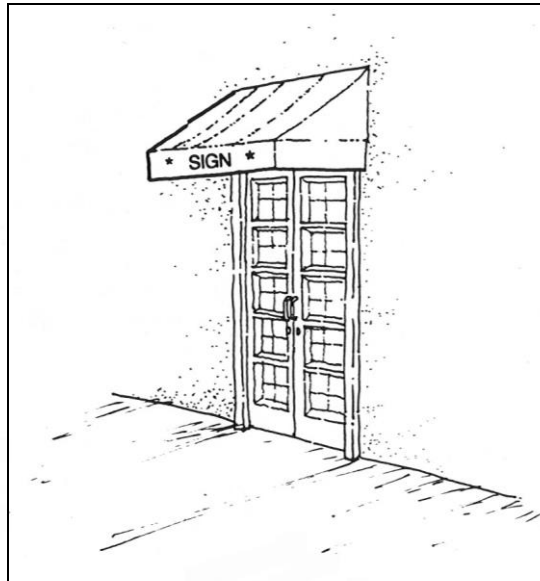
7. *Construction Sign:* A temporary sign indicating the names of the architects, engineers, landscape architects, contractors and similar artisans involved in the design and construction of a structure, complex or project only during the construction period and only on the premises on which the construction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

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

**B. Structural Types:**

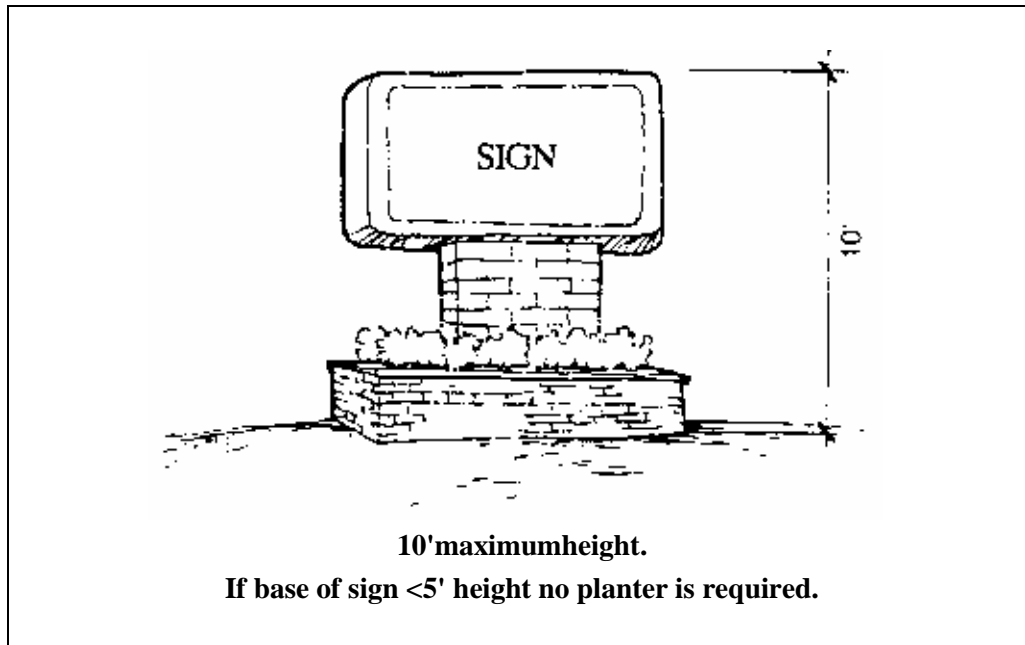
- (1) Awning, Canopy or Marquee Sign: A sign that is mounted on, painted on, or attached to, an awning, canopy or marquee. No such signs shall project above, below or beyond the awning, canopy or marquee.

**Figure 1 – Canopy Sign**



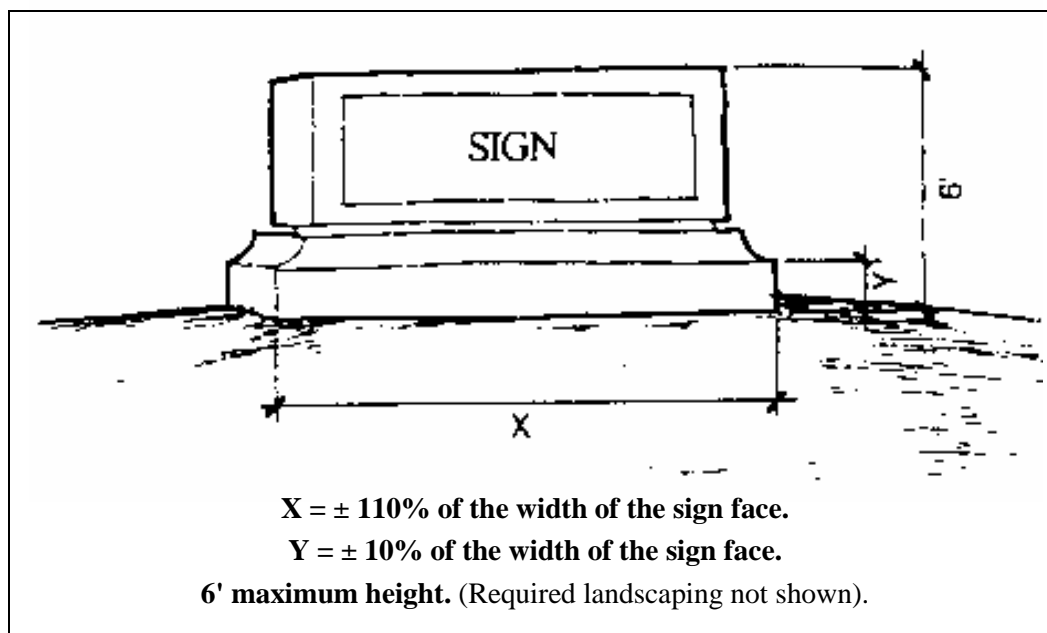
- (2) Ground Sign: Any sign placed upon, or supported by, the ground independent of the principal structure on the property, where the bottom edge of the sign is less than six feet above the ground, and the base is no less than 50 percent of the width of the face of the sign, presenting a monolithic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

**Figure 2 - Ground Sign**



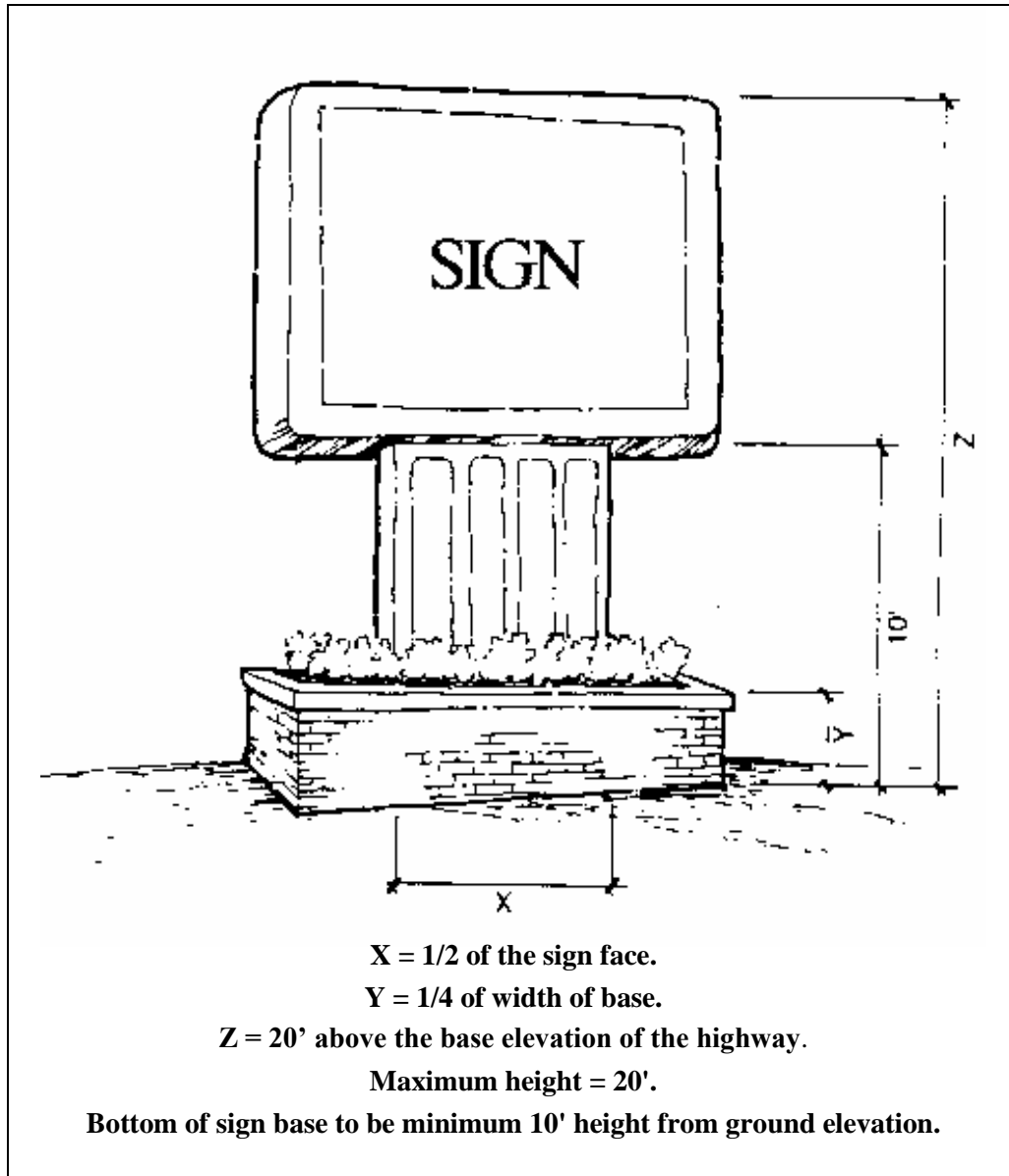
- (3) Monument Sign: Any sign whose base is greater in width than the face of the sign, and whose height is no greater than 6 feet.

**Figure 3 - Monument Sign**



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

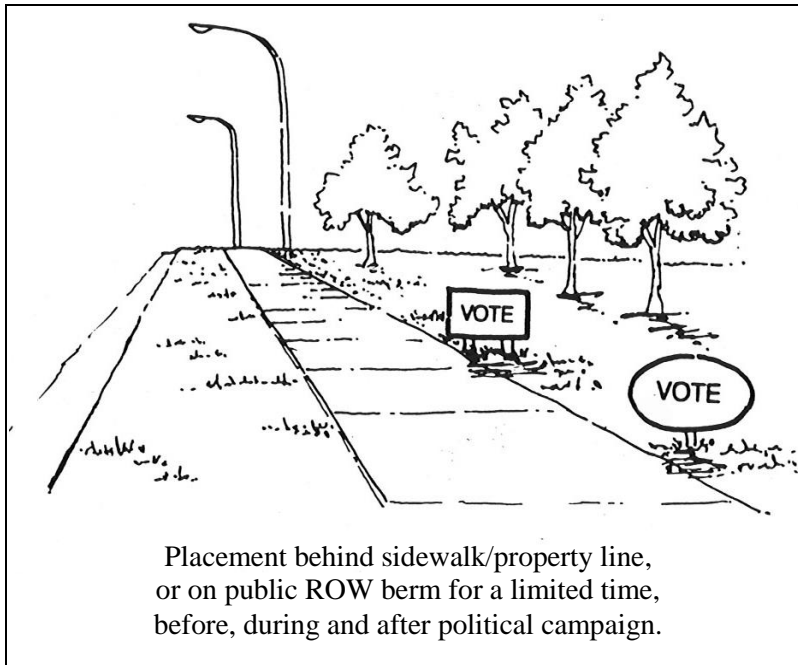
Figure 4 - Elevated Sign



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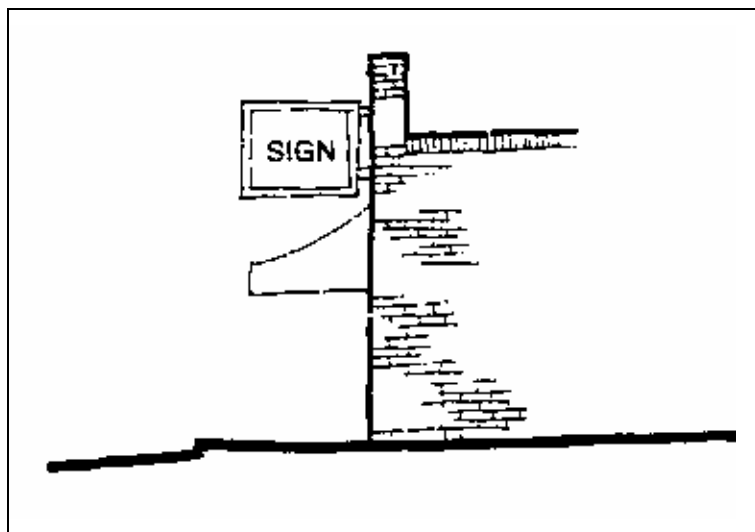
- (5) Political Campaign Sign: Any sign relating to a candidate, political party, ballot issue, or other issue to be voted on in any public election.

**Figure 5 – Political Campaign Sign**



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

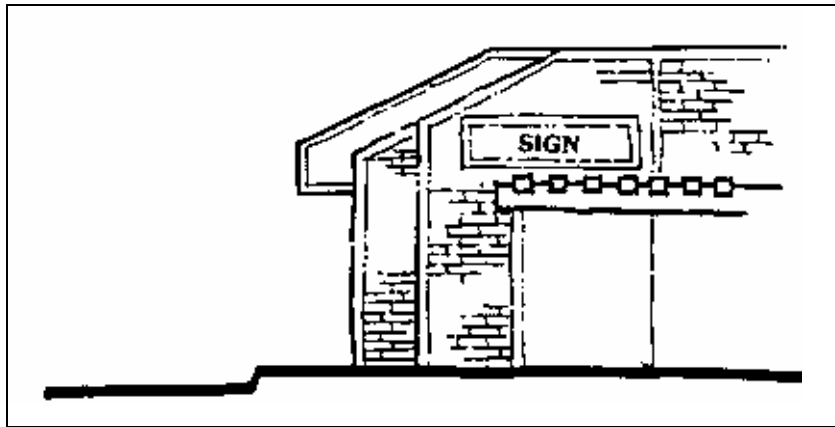
**Figure 6 - Projecting Sign**





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

**Figure 7 - Wall Sign**



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

**Figure 8 - Temporary Freestanding Sign**



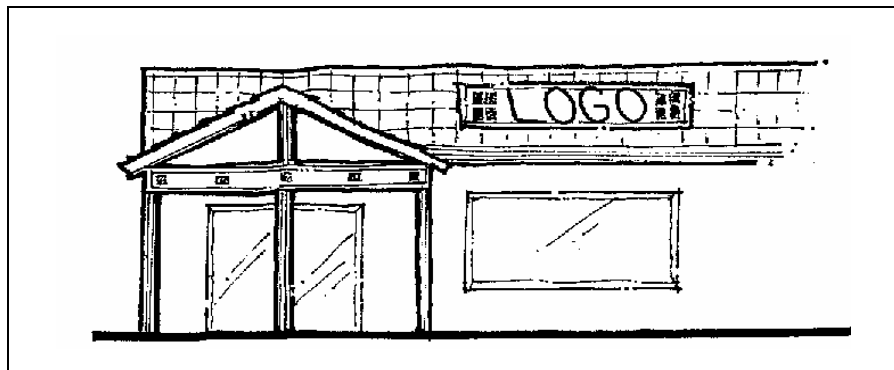
- (9) Portable Display Sign: A movable display, capable of relocation, under its own power, or towed by a motor vehicle. The display message of the sign may be painted or non-painted and capable of being readily altered. Portable display signs may be with or without electrical illumination, power or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

**Figure 9 - Portable Display Sign**



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

**Figure 10 - Roof Sign Logo Flush-Mounted**



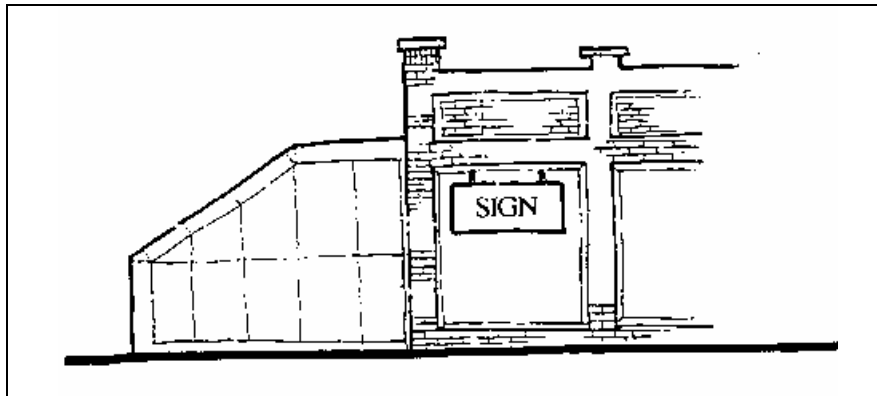
- (11) Elevated/Projecting Roof Sign: A sign totally supported on the roof of a structure, not including flush-mounted logo roof signs. Elevated/projecting roof signs shall not project more than 12 inches beyond the face of the structure. In no case shall an elevated/projecting roof sign project more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

**Figure 11 – Elevated Projecting Roof Sign**



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

**Figure 12 - Window Sign**



5. General Standards:

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

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

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

(5) No portion of the animation or electronic message panel shall exceed the height limit for the sign in the subject district, or 20 feet in height above the average elevation of the surrounding grade, whichever is less.

(6) Animated signs permitted by the provisions of this section shall comply with all other sign requirements.

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

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

H. Traffic Safety:

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

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

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

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

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

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

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

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

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

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

6. Exemptions:

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

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

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

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

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

(5) Scoreboards in athletic stadiums.

- (6) Political campaign signs displayed during no more than a four-week period preceding and a one-week period following a primary or general election. The City recognizes that the expression of political speech is an important and constitutionally protected right; that political election signs have certain characteristics that distinguish them from many of the other types of signs permitted and regulated by the City, including the fact that these signs generally do not meet the regular structural design of permanent signs, given their temporary nature; that political election signs therefore present a potential hazard to persons and property; and that the City must impose reasonable time limits on the display of political election signs for these reasons. Therefore, political campaign signs shall not be placed on or otherwise affixed to any public structure or sign, sidewalk, utility pole, street lamp post, tree or other vegetative matter, or any public park or other public property; except that, political signs may be placed in public rights-of-way with the permission of the abutting property owner (owner of abutting frontage).
- (7) Temporary signs for the sale of household goods at a residence (for example, garage sales or auctions) not to exceed six (6) square feet overall, nor four (4) feet in overall height. Garage Sale signs shall not be placed earlier than noon on the day before the sale and must be removed by the end of the sale. One sign may be erected at the location of the garage sale, and one other sign may be placed in the public street right-of-way no closer than five (5) feet from the road surface at an intersection with a collector or arterial street nearest the place of the sale with permission of the property owner, renter or lessee.

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

- (1) Name plate signs not exceeding two square feet in gross area accessory to a single-family or two-family dwelling.
- (2) Bulletin board signs not exceeding 100 square feet in gross area accessory to a church, school or public or non-profit institution.
- (3) Business signs when located on property used for agricultural purposes and pertaining to the sale of agricultural products produced on the premises.
- (4) Real estate signs in residential district not exceeding eight (8) square feet in area; and, in commercial and industrial districts, not exceeding sixteen (16) square feet.

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

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

7. Prohibited Signs:

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

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

C. Attention Attracting Devices.

8. Maintenance:

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

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

C. Sign Maintenance Enforcement:



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

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

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

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

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

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

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

11. Office Parks, Shopping Centers and Planned Districts: In the case of a proposed office park, shopping center, or other grouping of three or more tenants or establishments (new or remodeled), the developer shall prepare and submit to the Planning Commission a master signage plan for all permanent exterior signs. Such plan shall set standards that shall run with all leases or sales of portions of the development. A full and accurate description of all signs shall be included indicating location, placement, materials, graphic design styles, type of illumination, etc. Final development plans shall not be approved until the Planning Commission has approved the sign standards. For purposes of this section the terms “shopping center, office park, or their groupings,” shall mean a project of one or more buildings that has been planned as an integrated unit or cluster of units on property under unified control or ownership. The sale, subdivision, or other partition of the site does not exempt the project or portions thereof from complying with these regulations.
- A. In the case of a “shopping center, office park or other grouping” which is occupied by more than one tenant, one monument sign or ground sign may be permitted in addition to the wall mounted signs, which sign shall depict only the name of the center or grouping of shops or offices.
- B. Where all tenants and/or property owners within a building or “shopping center, office park or other grouping” agree in writing, one tenant may, in lieu of the wall sign permitted, have one monument sign or ground sign depicting the business or product. The design and location of this sign shall be subject to approval of the Planning Commission.

**Figure 13 - Sign Pattern**

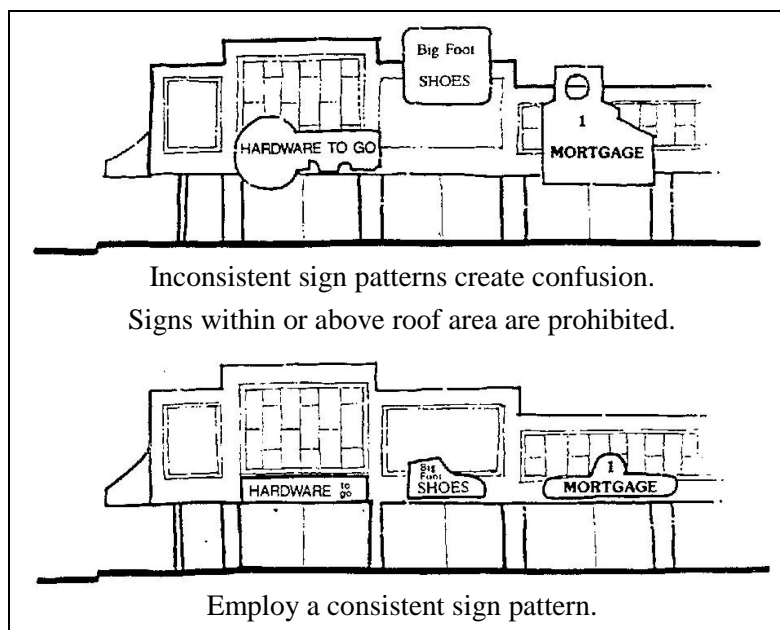
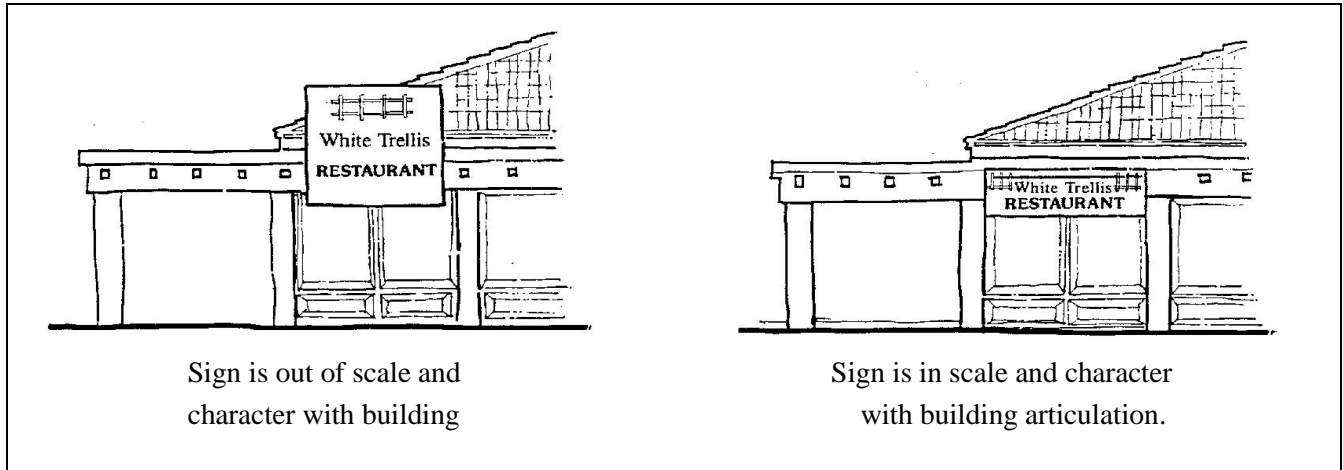


Figure 14 - Sign Scale and Character



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

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## ARTICLE 8 LANDSCAPING AND BUFFERING

### 1. General Requirements:

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

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

**2. Installation and Maintenance:**

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

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

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

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

4. Landscaping Material Standards:

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

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



## ARTICLE 9 - NONCONFORMITIES

1. General: Nonconformities are defined as follows:
  - A. Nonconforming Lot of Record: An unimproved lot which is part of a recorded subdivision or a parcel of land, the deed to which was recorded prior to the adoption of these regulations, and neither said lot nor parcel complies with the lot width or area requirements for any permitted use in the district in which it is located.
  - B. Nonconforming Structure: An existing structure which does not comply with the height or yard requirements which are applicable to new structures in the zoning district in which it is located.
  - C. Nonconforming Use: An existing use of a structure or of land which does not comply with the use regulations applicable to new uses in the zoning district in which it is located.
  - D. Nonconforming Situation: An existing nonconformity allowed to continue or expand with conditions.
2. Nonconforming Lots of Record: The nonconforming lots of record may be developed, provided that:
  - A. Said lot is shown by a recorded plat or deed to have been owned separately and individually from adjoining tracts of land at a time when the creation of a lot of such size and width at such location would not have been prohibited by any zoning regulations, and
  - B. Said lot has remained in separate and individual ownership from adjoining tracts of land continuously during the entire time that the creation of such lot has been prohibited by the applicable zoning regulations, and
  - C. Said lot can meet all yard regulations for the district in which it is located, and
  - D. Said lot can meet minimum standards for sewage treatment.
3. Nonconforming Structures:
  - A. Authority to Continue: Any structure which is devoted to a use which is permitted in the zoning district in which it is located, but which is located on a lot which does not comply with the applicable intensity of use regulations and/or the applicable yard and height regulations, may be continued, so long as it remains otherwise lawful.

***Article 9 – Nonconformities***

- B.     Enlargement, Repair, Alterations: Any nonconforming structure may be enlarged, maintained, repaired or remodeled; provided, however, no such enlargement, maintenance, repair or remodeling shall either create any additional nonconformity or increase the degree of existing nonconformity of all or any part of such structure; provided further, existing manufactured home parks not meeting the requirements of these regulations shall be declared nonconforming and shall not be permitted to add spaces or make any improvements inconsistent with the terms and conditions of these regulations.
  
- C.     Damage or Destruction: In the event that any nonconforming structure is damaged or destroyed, by any means, to the extent of more than 60 percent of its appraised value, such structure shall not be restored unless it shall thereafter conform to the regulations for the zoning district in which it is located. When a structure is damaged to the extent of 60 percent or less, no repairs or restoration shall be made unless a building permit is obtained and restoration is actually begun within one year after the date of such partial destruction and is diligently pursued to completion.
  
- D.     Moving: No nonconforming structure shall be moved in whole or in part for any distance whatever, to any other location on the same or any other lot unless the entire structure shall thereafter conform to the regulations of the zoning district in which it is located after being moved.

4.     Nonconforming Uses:

- A.     Authority to Continue: Any lawfully existing nonconforming use or part or all of a structure or any lawfully existing nonconforming use of land, not involving a structure or only involving a structure which is accessory of such use of land, may be continued, so long as otherwise lawful.
  
- B.     Ordinary Repair and Maintenance:
  - (1)    Normal maintenance and incidental repair, or replacement, installation or relocation of non-bearing walls, non-bearing partitions, fixtures, wiring or plumbing, may be performed on any structure that is devoted in whole or in part to a nonconforming use.
  
  - (2)    Nothing in these regulations shall be deemed to prevent the strengthening or restoring to a safe condition of a structure in accordance with an order of a public official who is charged with protecting the public safety and who declares such structure to be unsafe and orders its restoration to a safe condition.

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

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

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

5. Nonconforming Situations:

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

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

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

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## ARTICLE 10 – SPECIAL USE PERMITS

1. General Considerations:

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

2. Procedures

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

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- D. Hearing: Upon receipt of the formal application and all accompanying material, the Planning and Zoning Staff shall call a public hearing for the next scheduled meeting of the Planning Commission; provided, however, that notice must be published in a newspaper of general circulation at least 20 days prior to the date set for hearing. The Planning Commission shall submit a recommendation to the Governing Body within 30 days after the close of the public hearing.
- E. Findings: In making a recommendation to the Governing Body, the Planning Commission shall specify the particular grounds relied upon and their relation to the proposed use and shall make affirmative findings that the proposed use conforms with the general standards set forth in this article. In no case shall an exception be granted if the proposed use will constitute a nuisance or a public health or safety hazard to adjacent properties or to the community at large.
- F. Action by Governing Body: The Governing Body shall consider the Planning Commission's recommendation at the next regularly scheduled Governing Body meeting for which the agenda item can be docketed. The Governing Body shall consider the recommendation of the Planning Commission and act in accordance with the procedures for amending zoning district boundaries. If the Governing Body fails to act upon a recommendation within 120 days from the receipt thereof, the application shall be deemed to have been denied.

3. Standards for Issuance of Special Use Permits: Generally: Before any permit shall be granted, the Planning Commission shall make written findings certifying that adequate provision has been made for the following:

- A. The location and size of the proposed use in relation to the site and to adjacent sites and uses of property, and the nature and intensity of operations proposed thereon.
- B. Accessibility of the property to police, fire, refuse collection and other municipal services; adequacy of ingress and egress to and within the site; traffic flow and control; and the adequacy of off-street parking and loading areas.
- C. Utilities and services, including water, sewer, drainage, gas, and electricity, with particular reference to location, availability, capacity and compatibility.
- D. The location, nature, and height of structures, walls, fences, and other improvements; their relation to adjacent property and uses; and the need for buffering or screening.
- E. The adequacy of required yard and open space requirements and sign provisions.



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

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

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

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

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

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

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

D. Travel trailer parks shall be permitted subject to the following conditions:

- (1) The site selected for travel trailer parks areas shall be well drained and primarily designed to provide space for short-term occupancy to the traveling public. Locations of the site may not necessarily front on a major roadway or thoroughfare, but it shall be indirectly accessible to the major roadway by means of a private road or public road that it has frontage on.
  - (a) Utilities will not be individually metered by the City. The City will meter the park as a whole and rates will be set by the City's Fee Schedule. The bill will be the responsibility of the park's owner and subject to all applicable City policy.
- (2) Occupancy and Permitting. Travel Trailer Park occupancy shall be monitored and administered by the Park Owner, whose development plan approval is subject to the following occupancy standards and procedures:
  - (a) Temporary occupancy shall not exceed 120 days and requires no permit.
  - (b) Residents must register with travel trailer park owners.
  - (c) Long-term occupancy of more than 120-days shall require a long-term occupancy permit by the Travel Trailer Park Owner from the building official each calendar year to serve as a way to register the travel trailer as a long-term stay. The permit application will include information on all long-term residents at the park to serve as a way to make contact in case of emergency.
  - (d) All occupancy stays shall be subject to site inspections at any reasonable time to confirm that the site is in compliance with City's Nuisance Regulations and Travel Trailer Park Allowances, Article 10, D (9) of these regulations.
  - (e) All travel trailers on site shall be owner occupied and the park owner may have one personal travel trailer.
  - (f) Excluding tiny homes, manufactured homes and modular homes, individually built travel trailers or recreational vehicles not meeting traditional market specifications or converted school buses or other vehicles not originally designed as recreational vehicles or travel trailers may only be allowed when

the appearance of such is consistent with other recreational vehicles and travel trailers and upon approved by the City Manager or his or her designee.

- (3) Minimum tract size shall be two (2) acres under single ownership.
- (4) The maximum number of travel trailer spaces allowed within the permitted districts shall not be more than 20 per acre.
- (5) Minimum width of a trailer space shall be 25 feet and it shall be so designed to provide space for parking both the trailer and towing vehicle off the roadway. No trailer unit shall be closer than ten feet to any other adjacent unit, structure or roadway, and all spaces shall have direct access to the roadway. No unit shall be placed closer than 30 feet to any of the development property lines, and the ten feet nearest the property line shall be permanently maintained as a sodded and/or landscaped area.
- (6) A central office or convenience establishment with an attendant shall be provided within the trailer camp to register guests and provide service and supervision to the camp for camps in excess of five acres.
- (7) The applicant for a travel trailer park shall submit a development plan to the Planning Commission for approval. Such plan shall contain the information as required below and any other information the Board reasonably shall deem necessary to fully evaluate the proposed development. The applicant shall submit the information on a sheet size not to exceed 24" x 36" dimensions as a proposed development plan showing:
  - (a) General layout of the development with dimensions, depths, number of spaces and related sanitation accommodations.
  - (b) Parking area location, sizes and capacity.
  - (c) Ingress and egress points for the project.
  - (d) Use of structures.
  - (e) General layout of typical travel trailer space showing the size of space and proposed improvements and location of water, sewer and electric connections. Each site must be clearly numbered at the utility connection point with numbers no smaller than "4 in height.
  - (f) Layout of the roadway within the park.

- (g) Net density of proposed project, expressed in terms of units per acre.
  - (h) General landscaping plan indication all new and retained plant material to be incorporated within the new development and layout of outdoor lighting systems.
  - (i) Plan and method of sewage disposal and water supply.
  - (j) Location plan and number of proposed sanitary conveniences, including proposed toilets, washrooms, laundries and utility areas.
  - (k) The development shall provide a general refuse storage area or areas that shall be provided with a paved hard surface and shall be enclosed to screen it from view.
  - (l) Storm Shelter: Each Travel Trailer Park shall include a storm shelter on site, to be constructed in accordance with FEMA 320, 361 and ICC 500.
- (8) The travel trailer parks shall be planned and constructed in accordance with the minimum standards as established in this section and as outlined below:
- (a) All travel trailer park roads and off-road parking spaces shall be improved with a gravel surface or a hard surface of asphalt or concrete. If gravel, improvements shall be in accordance with specifications for gravel surfaces as detailed in Article 6 of these zoning regulations (Off-Street Parking and Loading Regulations); and if asphalt or concrete, in accordance with the City Engineer's specifications. All road approaches from a City street to the edge of the right of way/property line shall be hard surfaced with asphalt or concrete.
  - (b) All parks shall be provided with general outdoor lighting with a minimum of 0.3-foot candles of general illumination.
  - (c) All yard areas and other open spaces not otherwise paved or occupied by structures shall be sodded and/or landscaped and shall be maintained.
  - (d) The area where the dumpster is placed and two (2) feet on all sides of the dumpster to include an approach for the trash truck to back up to the dumpster shall also be a hard surface.

- (e) Existing or any Travel Trailer Parks being considered at this time shall have 1-year from the time this amendment is published to comply with the storm shelter requirement.
- (9) Travel Trailer Park Allowances shall be the responsibility of the Park's owner and all penalties or expenses when occurred due to violations of the current City of Osawatomie Nuisance Ordinance (this ordinance shall serve for all fines, appeals and all other administrative purposes) and the following:
  - (a) Travel Trailer parks are subject to all other applicable City Ordinances, including but not limited to, animal control, STO, UPOC, nuisance standards, and noise regulations. Anyone under a long-term permit must register their animal with the city just like any other citizen of Osawatomie.
  - (b) No storage of vehicles.
  - (c) No truck mounted shells separated from their mount vehicle.
  - (d) Trailers shall vacate the site within a 2-hour notice of high water problems at the site.
  - (e) No outdoor refrigerators or freezers can be on the site.
  - (f) Only outdoor storage that is typical of Travel Trailer Parks shall be allowed such as BBQ grills, bicycles and other related items. All storage shall be kept in a "neat and tidy" state as to be decided by the building official or designee.
  - (g) No tent camping on the site shall be allowed unless adequate shower and restroom facilities are present.
  - (h) No tents or soft sided (pop-up) type Travel Trailers shall be allowed as Long Term stay.
  - (i) No individual accessory type structures will be allowed, including but not limited to, sheds, fencing and permanent dog pens. The only structures on the site shall be owned by the park owner and indicated on the development plan.
  - (j) No decks, porches, stairs or ramps are to be built onto or beside a travel trailer unless approved by the City Manager.
  - (k) Skirting, when installed, must be of a material suitable for exterior exposure and contact with the ground. Manufactured and non-manufactured skirting is

***Article 10 – Special Uses***

allowed. Manufactured skirting shall be manufactured for use specifically on a Travel Trailer or for a Manufactured Home. Non-manufactured skirting may be used if skirting is similar in color to the travel trailer, a non-organic material, and capable of sustaining the outdoor elements.

- (l) If a Travel Trailer is using an LP/Propane tank that is not built into the Travel Trailer then that tank must be secured in such a manner that it cannot be easily knocked over.
  - (m) Playground equipment or swimming pools, with a water depth of more than 24” shall not be allowed unless the property of the Park and shall be included in the development plans. All applicable City Requirements shall apply.
- (10) If the owner of the Travel Trailer Park is cited for of any of the above nuisance violations or any of the “Travel Trailer Park Allowances” three times in any 12 month period then the City Manager may deem the Travel Trailer Park as a habitual violator and recommend to the council to revoke the Special Use Permit for that Travel Trailer Park.

**E. Kennels-Breeding and Boarding:**

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

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

- (1) Two off-street parking spaces with one additional off-street parking space per lodging room shall be provided.

- (2) The structure shall contain no less than 2,000 square feet of habitable floor area, and shall comply with standards for minimum dwelling size as required in the “R-3” district for multifamily dwellings.
- G. Echo Housing: A secondary residential dwelling for dependent members of the family residing in the principal dwelling on the same lot may be constructed in R-1, R-2 and C-B districts provided the following restrictions are met:
- (1) Nonconforming lots shall be re-platted to conform to current subdivision regulations.
  - (2) The secondary residential dwelling shall be located in the established rear yard no less than ten (10) feet from the rear lot line and in conformance to side yard setbacks.
  - (3) Where dwellings are held in separate fee simple ownership, easements shall be dedicated for separate utilities to be provided to each dwelling unit.
  - (4) The architectural style of the secondary dwelling structure shall echo the architectural style and materials of the principal structure, to which it shall be subordinate in height and bulk.
  - (5) Lot coverage shall not exceed 75 percent of the buildable lot area.
  - (6) All structures shall meet or be brought up to current building code requirements.
  - (7) A maximum of one off-street parking space with direct access to a public street via the existing driveway shall be provided for the secondary residence, which space may be located in the established front yard of the principal structure.

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## ARTICLE 11 – SITE PLAN REVIEW

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

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

- A. The balancing of landowners' rights to use their land, with the corresponding rights of abutting and neighboring landowners to live without undue disturbances (e.g., noise, smoke, fumes, dust, odor, glare, stormwater runoff, etc.);
- B. The convenience and safety of vehicular and pedestrian movement within the site, and in relation to adjacent areas or roads;
- C. The adequacy of waste disposal methods and protection from pollution of surface or groundwater;
- D. The protection of historic and natural environmental features on the site under review, and in adjacent areas; and
- E. The stability of the built environment--particularly residential neighborhoods--by promoting urban development that is compatible with clearly identified natural resources.

2. Applicability: Applications for Certificates of Occupancy shall be subject to Site Plan Review for development proposals in the multifamily, business and industrial zoning districts in accordance with these regulations. Developments shall be encouraged foster compatibility among land uses in the City of Osawatomie.

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

***Article 11 – Site Plan Review***

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

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

3. Authority: Certificates of Occupancy shall not be issued for any use of land or proposed construction on a lot in the zoning districts in which Site Plan Review is applicable, unless Site Plan Review approval has been granted.
4. Submission Requirements: The Site Plan shall include the following data, details, and supporting plans which are found relevant to the proposal. The applicant shall make notations explaining the reasons for any omissions. Site Plans shall be prepared by a registered professional engineer, architect, land surveyor or landscape architect, or by a certified land planner at a scale of 1 inch equals 20 feet, on standard 24" x 36" sheets. Items required for submission include:
  - A. Name of the project, address, boundaries, date, north arrow and scale of the plan.
  - B. Name and address of the owner of record, developer, and seal of the engineer, architect or landscape architect.
  - C. Name and address of all owners of record of abutting parcels.
  - D. All existing lot lines, easements, and rights-of-way. Include area in acres or square feet, abutting land uses and structures.
  - E. The location and use of all existing and proposed structures within the development. Include all dimensions of height and floor area, and show all exterior entrances and all anticipated future additions and alterations. For developments in the "C-1" Central Business District (CBD), indicate design details to make new construction compatible with existing structures.
  - F. The location of all present and proposed public and private ways, parking areas, driveways, sidewalks, ramps, curbs and fences. Location, type, and screening details for all waste disposal containers shall also be shown.

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

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

**ARTICLE 12 – BOARD OF ZONING APPEALS**

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

***Article 12 – Board of Zoning Appeals***

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

(2) Variances from these regulations may be granted only in the following instances:

- (a) To vary the applicable lot area and width, height and yard regulations.
- (b) To vary the applicable off-street parking and off-street loading requirements.

(3) A request for a variance may be granted, upon a finding of the Board that all of the following conditions have been met. The Board shall make a determination on each condition, and the finding shall be entered in the record.

- (a) The variance requested arises from such condition which is unique to the property in question and which is not ordinarily found in the same zone or district; and is not created by an action or actions of the property owner or applicant.
- (b) The granting of the permit for the variance will not adversely affect the rights of adjacent property owners represented in the application.
- (c) The strict application of the provisions of the zoning regulations of which the variance is requested will constitute unnecessary hardship upon the property owner represented in the application.
- (d) The variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare.
- (e) The granting of the variance desired will not be opposed to the general spirit and intent of the zoning regulations.

(4) In granting a variance, the Board may impose such conditions, safeguards and restrictions upon the premises benefited by the variance as may be necessary to:

- (a) reduce or minimize any potentially injurious effect of such variance upon other property in the neighborhood, and to carry out the general purpose and intent of these regulations; or

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

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

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

3. Applications:

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

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

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

- (1) Appeals:

***Article 12 – Board of Zoning Appeals***

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

(2) Variances:

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

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



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

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## ARTICLE 13 - AMENDMENTS

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

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

5. Adoption: The procedure for the consideration and adoption of a recommendation to amend zoning district boundaries shall be in the same manner as that required for the consideration and adoption of the original zoning regulations. A majority of the members of the Planning Commission present and voting at the hearing shall be required to recommend approval or denial of the amendment to the Governing Body. If the Planning Commission fails to make a recommendation on a rezoning request, the Planning Commission shall be deemed to have made a recommendation of disapproval. When the Planning Commission submits a recommendation of approval or disapproval of such amendment and the reasons therefore, the Governing Body may: (1) adopt such recommendation by ordinance; (2) override the Planning Commission's recommendation by a 2/3 majority vote of the membership of the Governing Body; or (3) return such recommendation to the Planning Commission with a statement specifying the basis for the Governing Body's failure to approve or disapprove.
6. Return of Recommendation: If the Governing Body returns the Planning Commission's recommendation, the Planning Commission, after considering the same, may resubmit its original recommendation giving the reasons therefore or submit a new and amended recommendation. Upon the receipt of such recommendation, the Governing Body, by a simple majority thereof, may adopt or may revise or amend and adopt such recommendation by the respective ordinance or it need take no further action thereon. If the Planning Commission fails to deliver its recommendation to the Governing Body following the Planning Commission's next regular meeting after receipt of the Governing Body's report, the Governing Body shall consider such course of inaction on the part of the Planning Commission as a resubmission of the original recommendation and proceed accordingly. The proposed rezoning shall become effective upon publication of the respective adopting ordinance or resolution.
7. Applications: Any party desiring any change in zoning district boundaries or regulations contained in this Zoning Ordinance, as to any lot, tract or area of land, shall file with the Planning and Zoning Department an application, and such application shall be accompanied by such data and information as prescribed in these

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

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

## **CITY OF OSAWATOMIE - ZONING REGULATIONS**

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### ***Article 13 – Amendments***

- E. Length of time property has remained vacant as zoned.
- F. Compatibility of the proposed district classification with nearby properties.
- G. The extent to which the zoning amendment may detrimentally affect nearby property.
- H. Whether the proposed amendment provides a disproportionately great loss to the individual land owners nearby relative to the public gain.

13. Protest: Regardless of whether or not the Planning Commission approves or disapproves a zoning amendment, if a protest against such amendment is filed in the office of the City Clerk within 14 days after the date of the conclusion of the public hearing pursuant to said publication notice, signed by the owners of record of 20 percent or more of any real property proposed to be rezoned or by the owners of record of 20 percent or more of the total area required to be notified of the proposed rezoning, excluding public streets and ways, located within or without the corporate limits of the City of Osawatomie, the ordinance adopting such amendment shall not be passed except by at least a three-fourths (3/4) vote of the members of the Governing Body.
14. Publication: If the Governing Body approves an application, it shall adopt an ordinance to that effect, but said request shall not become effective until its publication in the official City newspaper.
15. Official Zoning Map: If the official zoning map has been adopted by reference, the amending ordinance shall define the change or boundary as amended, shall order the official zoning map to be changed to reflect such amendment and shall amend the section of the ordinance incorporating the same and shall reincorporate such map as amended.

## ARTICLE 14 - ADMINISTRATION

1. Legislative and Quasi-Judicial Regulation of Land Use: The City shall regulate land use as provided by K.S.A. 12-741, et. seq., and appoint a representative to the Planning Commission by City ordinance; which Planning Commission shall prepare and adopt bylaws for the conduct of their business, including adoption of a comprehensive plan and recommendations.
2. Office of the Codes Official:
  - A. Authorization: A Codes Official shall be responsible for the enforcement of these regulations. The City Manager shall appoint a Codes Official or shall assign the duties of the Codes Official to appropriate personnel.
  - B. Duties of the Codes Official: The Codes Official shall enforce these regulations by providing the following zoning enforcement services:
    - (1) Approve and issue all occupancy certificates and make and maintain records thereof.
    - (2) Conduct inspections of uses of land to determine compliance with the provisions of the zoning and subdivision regulations.
    - (3) Receive, file, and forward to the Board of Zoning Appeals the records in all appeals and all applications for variances, and to the Planning Commission all applications for special uses, Planned Overlay Districts and related zoning matters.
  - C. Duties of the City Clerk: The City Clerk shall administer these regulations by providing the following administrative services:
    - (1) Maintain permanent and current records of the zoning regulations including, but not limited to, all zoning maps, amendments, special uses, variances, appeals and applications therefore and records of hearing thereon.
    - (2) Maintain for distribution to the public a supply of copies of the zoning map or maps, the compiled text of the zoning regulations, and the rules of the Board of Zoning Appeals.
3. Zoning Application:
  - A. Submittal: All applications for any zoning action within the City shall be subject to the following:
    - (1) Applications shall be completed in their entirety, as specified in the application. If any item is felt by the applicant to be inapplicable to the proposed action, the applicant shall provide a written explanation of why such item is inapplicable and thus not completed;
    - (2) Applications are not deemed acceptable until all required items on the application are met or written explanation is submitted;

***Article 14 – Administration***

- (3) Following the submittal of an application, staff shall have 14 calendar days to respond to the application submittal and determine its acceptability; and
    - (4) The application, if incomplete or deemed to be unacceptable by City Staff, shall result in the application being excluded from public meeting agendas indefinitely until all requirements are met.
  - B. Submittal Dates: Applications and all required materials and supplemental data shall be submitted in accordance with the City's Application and Review Schedule.
  - C. Required Copies: Copies of all required materials and supplemental data shall be submitted in accordance with the City's Application and Review Schedule.
  - D. Fees: Application fees shall be required in accordance with the City's Fee Resolution.
- 4. Certificates of Occupancy: No structure or addition thereto constructed, built, moved, remodeled or reconstructed after the effective date of these regulations shall be occupied or used for any purpose; and no land vacant on the effective date of these regulations shall be used for any purpose; and no use of any land or structure shall be changed to any other use, unless an occupancy certificate shall first have been obtained from the office of the Codes Official certifying that the proposed use or occupancy complies with all the provisions of these zoning regulations, subject to the following procedures:
  - A. Application for Occupancy Certificate: Every application for an occupancy certificate for a new or changed use of land or structures shall be filed with the Office of the Codes Official and be in such form and contain such information as the Codes Official shall provide by general rule. Every application for a Certificate of Occupancy must include at least the following, as appropriate:
    - (1) A plat, in duplicate, of the piece or parcel of land, lot, lots, block or blocks, or parts or portions thereof, drawn to scale showing the actual dimensions of the piece or parcel, lot, lots, block or blocks, or parts or portions thereof, according to the recorded plat of such land; or
    - (2) A plot plan, in duplicate, drawn to scale and in such form as may, from time to time, be prescribed by the Codes Official, showing the location, ground area, height, and bulk of all present and proposed structures, drives and parking lots, the structure lines in relation to lot lines, waste disposal areas, the use to be made of such present and proposed structures on the land, and such other information as may be required by the Designated Official for the proper enforcement of these regulations.



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

***Article 14 – Administration***

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

## ARTICLE 15 – VIOLATIONS AND PENALTIES

### 1. Violations:

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

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

***Article 15 – Violations***

2. Enforcement and Remedies:

The City shall have the following remedies and enforcement powers:

- A. Withhold Permits or Approvals: The city may deny or withhold all permits, certificates, plan or plat approvals or other forms of authorization on any land or structure or improvements thereon upon which there is an uncorrected violation of a provision of this article or of a condition or qualification of a permit, certificate, approval or other authorization previously granted by the City. The City may, instead of withholding or denying an authorization, grant such authorization subject to the condition that the violation be corrected. The provisions of this subsection shall apply regardless of whether the current owner or applicant is responsible for the violation in questions.
- B. Revoke permits: The Codes Official may revoke a building permit or certificate of occupancy or initiate the revocation of any other permit or approval under these regulations upon a finding that:
  - (1) There is a departure from the plans, specifications or conditions as required under the terms of a particular permit, plan or other approval;
  - (2) That the same was procured by false representation or was issued by mistake; or
  - (3) That any of the provisions of this article are being violated.
- C. Notice of Revocation: Written notice of such revocation shall be mailed by U.S. mail to the owner, his or her agent or contractor of upon any person employed on the building or structure for which such permit was issued or shall be posted in a prominent location and thereafter, no such construction shall proceed. Upon revocation of a permit that was issued by mistake, the owner shall meet with the City to determine what respect a mistake was made. Where plans are in conflict with ordinances, regulations or other city requirements, the plans may be required to be altered to conform to all applicable ordinances, regulations or requirements. When a mistake has been made calculating the fee for a building permit, the proper fee will be charged.
- D. Stop Work: With or without revoking permits, the City may stop work on any building or structure on any land on which it has a good faith belief that there is an uncorrected violation of a provision of this article or of a permit or other form or authorization issued hereunder.

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

***Article 15 – Violations***

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## ARTICLE 16 – PLANNED OVERLAY DISTRICTS

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

***Article 16 – Planned Overlay Districts***

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

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

**2. DEVELOPMENT PLAN APPLICATION CONTENTS AND SUBMISSION REQUIREMENT.**

An application shall include the following:

**A. An affidavit of ownership.**

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

**B. Development Plan – Consideration:**

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



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

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

***Article 16 – Planned Overlay Districts***

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

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

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

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

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

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

***Article 16 – Planned Overlay Districts***

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

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



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



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

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## ARTICLE 17 – PERFORMANCE STANDARDS

### 1. INTENT:

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

### 2. WIRELESS COMMUNICATION SYSTEMS: INTENT; DEFINITIONS.

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

#### A. DEFINITIONS:

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

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

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

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

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

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

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

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

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

***Article 17 – Performance Standards***

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Ground-mounted. Mounted on the ground.

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

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

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

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

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

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

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

**B. Zoning Districts; Limitations.**

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

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

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

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

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

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

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**D. ASSURANCE OF TENURE.**

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

**E. REMOVAL**

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

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

**F. Submittal Requirements.**

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

(1) General:

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

(2) Siting and design:

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

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

**1. WIND ENERGY CONVERSION SYSTEMS (WECS)**

**2. Purpose.**

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

**3. Definitions.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Wind Energy Facility: a WECS.

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

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

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

**5. General Provisions.**

The following general provisions apply.



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

**6. Standards and Regulations.**

All WECS shall meet or exceed the following standards:

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

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

**7. Size and Lot or Parcel Restrictions.**

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

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

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

**8. APPLICATIONS FOR COMMERCIAL-WECS.**

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

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

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

**9. APPLICATIONS FOR MICRO-WECS.**

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

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

**10. USE LIMITATIONS.**

All WECS shall comply with the following use limitations:

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

**11. REMOVAL AFTER DISUSE OF A COMMERCIAL-WECS.**

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

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

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## **ARTICLE 18 – MANUFACTURED HOME PARK REGULATIONS**

**1. INTENT:**

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

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

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

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



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

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

***Article 18 – Manufactured Home Park Regulations***

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

## APPENDIX A – PERMITTED USE TABLES BY DISTRICT

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

# CITY OF OSAWATOMIE - ZONING REGULATIONS

## Appendix A - Permitted Uses by District

Land Uses Table by Zoning District	AG, Agricultural	R-1 (Residential Low-Density)	R-2 (Residential Medium-Density)	R-3 (Residential High-Density)	R-4 (Manufactured Home Park District)	C-B (Central Business)	G-B (General Business)	I-1 (Light Industrial)	I-2 (Heavy Industrial)	LB/CS Function	LB/CS Structure	NAICS
<b>Accommodations, Group Living</b>												
Bed and Breakfast (See Home Occupation)												
Boarding and lodging house	S			S						1320		721310
Community living facility, Mental Health Convalescent	S			S						6520		623220
Community living facility, Mental Health / Substance Abuse, on-site staff						S				6520		623220
Dormitories				S		S				1000	1320	72131
Group home	P	P	P	P						6520		623220 623990
Group residence, limited (> 8)	S			S						6520		623220 623990
Group Residence, Elderly residential services.	P	P	P	P	P	P	P			1230 1250 6520		623110 623111 623112 623312
Hotel, motel						P	P			1330	1330	
Travel or Camping Trailer Park	S											
<b>Commercial Services &amp; Mixed Use</b>												
Adaptive re-use of converted buildings	P	P	P	P		P	P					
Agricultural machinery and equipment sales area and service facility	S						P	S	S	2000		421820
Animal and pet services - boarding, grooming, sitting, and training, no outside kennel, no retail						P	P	S	S	2720		
Animal Care - Veterinarian Clinics, Animal hospital - enclosed kennel	S						P	S	S	2718		541940
Automotive services, except repairs and car washes						P	P	S	S			
Automobile service station full service							P	S	S	2116	2270	
Building materials sales and storage							P	P	P	2126		444190
Building materials sales - without lumberyard						P	P			2126		444190

<b>Land Uses Table by Zoning District</b>	<b>AG, Agricultural</b>	<b>R-1 (Residential Low-Density)</b>	<b>R-2 (Residential Medium-Density)</b>	<b>R-3 (Residential High-Density)</b>	<b>R-4 (Manufactured Home Park District)</b>	<b>C-B (Central Business)</b>	<b>G-B (General Business)</b>	<b>I - 1 (Light Industrial)</b>	<b>I - 2 (Heavy Industrial)</b>	<b>LB CS Function</b>	<b>LB CS Structure</b>	<b>NAICS</b>
Car Wash, Car Care Centers							P	S	S	2110	2593	811192
Elderly Service Center, non-residential						P	P					624120
Farm / landscape / garden supply sales	S						P	A	A	2123		
Farm supplies -- wholesale trade	S						S					
Fertilizer sales and storage	S						S	S	S	2000		421820
Finance, Banks (Not including payday loans, check cashing, and consumer installment lenders)						P	P					522291
Finance, alternative services (including payday loans, check cashing, and consumer installment lenders)							S					522291
Home Occupation	A	A	A	A	A	A	A					
Home Occupation, Bed and Breakfast	S	S	S	S		A	A			1310		721191
Leasing, Agricultural/Industrial Machinery and Equipment							S	S	S	2334		
Leasing/Rental of Trucks, Trailers, RV's, Boats, Motorcycle							P	S	S	2332 2333		4411
Restaurant, Limited Service						P	P	S	S	2210		722211
Restaurant, Full Service						S	P			2200		722210
Sales and service, manufactured home, recreation vehicle, bus, truck, or similar large vehicles							P			2112		45393
Sales, boats/marine, recreational vehicle, travel or camping trailer, camper (including repair)							P			2114		44121 441222 441229
Vehicle repair and restoration, not including automotive wrecking or long-term disabled vehicle outdoor storage							P	P	P	2110	2280	811191

# CITY OF OSAWATOMIE - ZONING REGULATIONS

## Appendix A - Permitted Uses by District

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

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

# CITY OF OSAWATOMIE - ZONING REGULATIONS

## Appendix A - Permitted Uses by District

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



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

***Appendix A - Permitted Uses by District***

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## **APPENDIX B - MULTIFAMILY DEVELOPMENT GUIDELINES**

### **INTRODUCTION**

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

### **PURPOSE**

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

### **PROCESS**

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

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

### **SITE PLAN**

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

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

***Appendix B - Multifamily Development Guidelines***

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

**MULTIFAMILY DEVELOPMENT GUIDELINES**

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

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

**REQUIRED SUPPLEMENTARY INFORMATION FOR ZONING AND SITE PLAN APPLICATIONS**

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

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

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

#### **DEVELOPMENT CRITERIA**

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

#### **Neighborhood Infill Design Objectives**

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

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

***Appendix B - Multifamily Development Guidelines***

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

**Natural Features Design Objectives**

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

**Open Space Design Objectives**

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

### **Building Orientation Design Objectives**

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

### **Vehicular Circulation and Parking Design Objectives**

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

***Appendix B - Multifamily Development Guidelines***

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

**Pedestrian Circulation Design Objectives**

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



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

### **Landscaping Design Objectives**

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

### **Grading Design Objectives**

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

### **Architectural Design Objectives**

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

***Appendix B - Multifamily Development Guidelines***

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

## APPENDIX C – TABLE OF SIGNS PERMITTED

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

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

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

P = Permitted

C = Permitted with conditions

**CITY OF OSAWATOMIE - ZONING REGULATIONS**

**Appendix C – Table of Signs Permitted by Zoning District**

**Appendix C: SIGNS PERMITTED BY ZONING DISTRICT—Continued**

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

P = Permitted

C = Permitted with conditions.

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