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OSAGE COUNTY, KANSAS

# **ZONING REGULATIONS**

MAY 2024 EDITION

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# ARTICLE 1: TITLE, PURPOSE, DEFINITIONS, DISTRICT AND GENERAL REGULATIONS

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## SECTIONS:

- 1-101 TITLE**
- 1-102 PURPOSE**
- 1-103 JURISDICTION**
- 1-104 DEFINITIONS**
- 1-105 DISTRICTS**
- 1-106 GENERAL REGULATIONS GOVERNING ALL ZONING DISTRICTS**
- 1-107 VESTING OF DEVELOPMENT RIGHTS**

### **1-101 TITLE:**

These regulations, including the mapping and/or zoning designation records made a part hereof, shall be known and may be cited as the “Zoning Regulations of Osage County, Kansas”, and shall hereinafter be referred to as “these Regulations.”

### **1-102 PURPOSE:**

These Regulations are intended to serve the following purposes:

1. To promote the health, safety, morals, comfort and general welfare of the residents of Osage County, Kansas.
2. To create zoning districts sensitive to the needs of the residents of Osage County while protecting and enhancing the values of all the residents of Osage County, and encouraging as much non-agricultural development as possible to occur within the incorporated cities of the County.
3. To preserve, maintain, and conserve agricultural land within Osage County, Kansas.
4. To encourage and promote agricultural development and productivity, and to protect agricultural land from the intrusion of uses which are incompatible, inconsistent, or which otherwise detract from, limit, restrict, or diminish agricultural productivity within Osage County, Kansas.
5. To encourage and promote family farms.
6. To avoid the undue concentration of populations and to prevent overcrowding in the use of land and community facilities.
7. To provide adequate notice on proposed changes in the use of land from one land classification to another, and an opportunity for interested parties to be heard.
8. To facilitate the adequate provisions of transportation, water, sewage, schools, utilities, and other public improvements and services for the benefits of the residents of Osage County, Kansas.
9. To inform the public regarding future development in Osage County, Kansas, thereby providing a basis for wise decisions with respect to such development.

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### 1-103 JURISDICTION:

These Regulations shall apply to all lands within the unincorporated portion of Osage County, Kansas.

### 1-104 DEFINITIONS:

For the purpose of these Regulations, certain terms and words are hereby defined. Words used in the present tense shall include both the past and the future, and words used in the future tense shall include the present; words in the singular number shall include the plural and words in the plural number shall include the singular; the word “building” shall include the word “structure”; the word “dwelling” shall include the word “residence”; the word “lot” shall include the word “plot”; the word “person” shall include individuals, firms, corporations, associations, governmental bodies and agencies, and all other legal entities; the word “shall” is mandatory and not directory while the word “may” is permissive; and the phrase “used for” shall include the phrases “arranged for”, “designed for”, “intended for”, “maintained for”, and “occupied for”. Words or terms not herein defined shall have their ordinary and customary meaning in relation to the context.

1. **ABANDONED VEHICLE:** Any inoperable motor vehicle to which the last registered owner of record thereof has relinquished all further dominion and control.
2. **ACCESS:** The right to cross between public and private property allowing pedestrians and vehicles to enter and leave property.
3. **ACCESSORY BUILDING:** A subordinate building or portion of the main building, located on the same lot, the use of which is clearly incidental to that of the main building or to the use of the land on which it is located. Customary accessory buildings include, but are not limited to, garages, carports, garden houses, small storage sheds and children’s playhouses. As such, an accessory building may be attached or detached from the main building.
4. **ACCESSORY USE:** A subordinate use which serves an incidental function to that of the principal use of the premises. Customary accessory uses include, but are not limited to, tennis courts, swimming pools, air conditioners, barbecue grills, fireplaces, and satellite dish antennas.
5. **ADMINISTRATIVE OFFICER:** See Zoning Administrator.
6. **ADULT ENTERTAINMENT BUSINESS:** An establishment used for presenting material, selling material, or featuring entertainment that is distinguished or characterized by an emphasis on displaying, depicting, describing, or relating to sexual activities or anatomical areas that are sexual in nature and which excludes minors by virtue of age. This shall include such uses that are commonly known as adult bookstores, adult theaters, massage parlors, rap centers, nude wrestling studios, body painting studios, nude modeling studios, nude photography studios, peep shows, strip shows, escort services, and other similar uses. This shall also include any activity identified or addressed within K.S.A. 12-770, and amendments thereto.
7. **AGRICULTURAL PURPOSES, LAND USED FOR:** The use of a tract of land for the production of plants, animals and/or horticultural products, including but not limited to: Forages; grains and feed crops; dairy animals and dairy products; cattle, sheep, poultry, swine and horses; bees and apiary products; trees and forest products; fruits, nuts and berries; vegetables; or nursery, floral, ornamental or greenhouse products. Land used for agricultural purposes shall not include the following:

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- a. Lands which are used for recreational purposes even though such properties may produce or maintain some of the plants or animals listed herein.
  - b. Lands which are used for suburban residential home sites and yard plots whose primary function is for residential purposes even though such properties may produce or maintain some of the plants or animals listed herein.
  - c. The operation or maintenance of greenhouses, nurseries or hydroponic farms operated at retail.
  - d. The operation of an auction sales yard.
  - e. The operation of a junkyard.
  - f. The operation or maintenance of a commercial stockyard, feedlot or other confined animal feeding operation.
  - g. The operation of a boarding or breeder kennel.
  - h. The keeping of exotic birds and/or animals.
  - i. The operation of a bed and breakfast.
  - j. The operation of an airport or landing strip.
  - k. Quarrying or mining activities, even though the reclamation of same may be for water impoundments that support agricultural activities.
8. **AIRCRAFT:** A weight-carrying structure for navigation of the air that is supported either by its own buoyancy or by the dynamic action of the air against its surfaces. Aircraft includes, but is not limited to, airplanes, helicopters, gliders, ultra-light airplanes, hot-air balloons, and the like.
9. **AIRPORT OR AIRCRAFT LANDING FIELD:** Any landing area, runway or other facility designed, used, or intended to be used either publicly or by any person or persons for the landing and taking off of aircraft, including all necessary taxiways, aircraft storage, and tiedown areas, hangars, and other necessary buildings and open spaces.
10. **ALLEY:** A public or private thoroughfare which provides only a secondary means of access to abutting property.
11. **ALTERATION:** A change or rearrangement in the structural parts of an existing building or structure. Enlargement, whether by extending a side, increasing the height, or the moving from one location or position to another, shall be considered as an alteration.
12. **ALTERNATIVE ENERGY SYSTEMS:** Either a Wind Energy Conversion System (WECS) or a Solar Energy Conversion System (SECS). Those terms shall mean the following:
- a. Wind Energy Conversion System (WECS) means the combination of mechanical and structural elements used to produce electricity by converting the kinetic energy of wind to electrical energy. Wind Energy Conversion Systems consist of the turbine apparatus and any other buildings, support structures and other related improvements necessary for the generation of electric power from wind and intended for wholesale sales of generated electricity. This

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definition shall also include generation interconnect (“gen-tie”) transmission lines, which means the electrical wires, switches and other equipment used to interconnect an Alternative Energy System to the electric transmission system under the functional control of the Southwest Power Pool, including gen-tie lines for Alternative Energy Systems located outside of the county.

- b. Solar Energy Conversion System (SECS) means a commercial facility that converts sunlight into electricity, whether by photovoltaics (PV), concentrating solar thermal devices (CST), or other conversion technology, for the primary purpose of wholesale sales of generated electricity and includes all associated support facilities including, but not limited to, roads, substations, operation, and maintenance buildings. This definition shall also include generation interconnect (“gen-tie”) transmission lines, which means the electrical wires, switches and other equipment used to interconnect an Alternative Energy System to the electric transmission system under the functional control of the Southwest Power Pool, including gen-tie lines for Alternative Energy Systems located outside of the county.
- c. This definition shall not include alternative energy systems used for the private on-site generation and consumption of generated electricity (see definitions for Solar Energy Conversion System – Private and Wind Energy Conversion System – Private).

- 13. **AMENDMENT:** The process of change or alteration to the Zoning Regulations in one of the following forms:
  - a. A comprehensive revision or modification of the zoning text and/or maps.
  - b. A text change in the zone requirements.
  - c. A change in the maps, i.e., the zoning designation of a particular parcel or parcels. This form is also known as “rezoning.”
  - d. The approval of a Conditional Use Permit as provided within these Regulations.
- 14. **APPLICANT:** The owner of a tract of land, or his duly designated representative, for which an amendment has been requested.
- 15. **AUCTION SALES YARD:** A tract of land and accompanying buildings and/or other structures, if any, arranged or designed to be used for the sale by auction of merchandise offered on consignment.
- 16. **BOARD OF ZONING APPEALS:** That board created herein which has the statutory authority to hear and determine appeals, exceptions and variances to these Regulations.
- 17. **BUFFER AREA:** Open and unobstructed ground area of a plot in addition to any required yards or road widenings around the perimeter of any plot.
- 18. **BUILDABLE WIDTH:** The width of that part of a lot not included within any required open space.
- 19. **BUILDING:** Any structure built for the support, shelter, or enclosure of persons, animals, chattels or movable property of any kind, and which is permanently affixed to the land, exclusive of fences.

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20. **BUILDING HEIGHT:** The vertical distance from the established grade to the highest point on the roof or parapet wall.
21. **BUILDING LINE:** A line, usually fixed parallel to the lot line, beyond which a building cannot extend under the terms of these Regulations. The building line is equivalent to the setback or yard line.
22. **BUILDING, PRINCIPAL:** A building in which is conducted the main or principal use of the plot on which said building is situated. In any residential district, any dwelling shall be deemed to be a principal building on the plot on which it is located.
23. **CEMETERY:** Land used for burial and dedicated for cemetery purposes, including columbariums, crematories, mausoleums, and mortuaries when operated in conjunction with and within the boundaries of such cemetery; provided, however, that a private family burial plot, as defined herein, shall be treated separately as provided by these regulations.
24. **CHILD CARE CENTER:** A facility licensed by the State of Kansas to provide for the care of thirteen (13) or more children from two (2) weeks to sixteen (16) years of age, and which is maintained for less than twenty-four (24) hours per day.
25. **CHURCH:** An establishment, the principal purpose of which is religious worship, but which may include such accessory uses in the main structure or in separate buildings, as Sunday School rooms, private schools, child care, assembly rooms, kitchen, recreational facilities and/or library.
26. **CLEAN RUBBLE:** Inert uncontaminated construction and demolition waste which includes concrete and concrete products, reinforcing steel, asphalt pavement, brick, soil or rock.
27. **CLINIC:** A building designed and used for the medical, dental or surgical diagnosis or treatment of patients under the care of doctors and/or nurses, with no overnight boarding.
28. **CLUB:** Buildings and facilities owned or operated by a corporation, association, person or persons for social, educational, or recreational purposes, but not primarily for profit which inures to any individual and not primarily to render a service which is customarily carried on as a business.
29. **CLUB, MEMBERSHIP:** Membership clubs, including private clubs, as defined by K.S.A. 41-2601 et seq and succeeding amendments, including but not limited to such clubs as the American Legion, VFW, and the Elks.
30. **CLUSTER HOUSING:** The site planning technique of grouping dwelling units around courts, parking areas, common open spaces and private drives as opposed to fronting all on a public street.
31. **COMMON OPEN SPACE:** An area of land, water or combination thereof, planned for active or passive recreation, but not including areas utilized for streets, alleys, driveways or private roads, off-street parking or loading areas, or required yards. The area of recreational activities such as swimming pools, tennis courts, shuffleboard courts, etc., may be included as common open space.
32. **COMPREHENSIVE PLAN:** The adopted Comprehensive Plan for Osage County, Kansas, and amendments thereto.

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- 33. **CONDITIONAL USE:** A use of any building, structure or parcel of land that, by its nature, is perceived to require special care and attention in siting so as to assure compatibility with surrounding properties and uses. Conditional uses are allowed only after public notice, hearing, and approval as prescribed in these Regulations and may have special conditions and safeguards attached to assure that the public interest is served.
- 34. **CONDITIONAL USE PERMIT:** A written document of certification issued by the Zoning Administrator permitting the construction, alteration or establishment of a Conditional Use.
- 35. **CONDOMINIUM:** A building containing two (2) or more dwelling units which are designed and intended to be separately owned in fee under the Townhouse Ownership Act (K.S.A. 58-3710 et seq) of the State of Kansas.
- 36. **CONFINED ANIMAL FEEDING OPERATION:** Any lot, pen, pool and/or pond which is used for the confined feeding of animals or fowl for food, fur or pleasure which is not normally used for raising crops and in which no vegetation intended for animal food is growing. For purposes of these regulations, a confined animal feeding operation shall be only those operations licensed for a minimum of 1,000 animal units with the Kansas Department of Health and Environment. An animal unit shall be as defined by state statute.
- 37. **CONSTRUCTION/DEMOLITION LANDFILL:** A permitted solid waste disposal area used exclusively for the disposal on land of construction and/or demolition waste.
- 38. **CONSTRUCTION/DEMOLITION WASTE:** Waste building materials and rubble resulting from construction, remodeling, repair or demolition operations; but not clean rubble or asbestos.
- 39. **COUNTY:** The Board of County Commissioners of Osage County, Kansas, or its delegated staff, boards or agencies.
- 40. **COUNTY ATTORNEY:** The County Attorney, or such licensed attorney designated by the County Attorney, responsible for the prosecution of all violations of these Regulations in accordance with the provisions contained herein, and as established by law.
- 41. **COUNTY COUNSELOR:** The County Counselor, or such licensed attorney designated by the County Counselor or Governing Body, to furnish legal assistance for the administration of these Regulations.
- 42. **COUNTY ENGINEER:** The County Engineer, or such licensed engineer designated by the County Engineer or Governing Body, to provide engineering assistance in administering these and other Regulations governing areas of normal responsibilities assigned to the County Engineer.
- 43. **COUNTY HEALTH OFFICER:** The Director of the Osage County Health Department, or such person designated to administer the Health Regulations of Osage County.
- 44. **DAY CARE HOME:** A facility licensed by the State of Kansas to provide for the care of not more than ten (10) children under fourteen (14) years of ages, not more than six (6) of whom are under kindergarten age, between the hours of 6:00 a.m. and 9:00 p.m. This term is further construed to include similar units operated under other names.



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- 45. **DENSITY:** The average number of dwelling units per acre of land, expressed in terms of “units per acre.” The area is exclusive of public streets or other public dedications. (Example: 30 dwelling units occupying 4 acres of land is 7.5 units per acre.)
- 46. **DISTANCE:** Horizontal distances unless otherwise designated.
- 47. **DISTRICT:** A section or sections of the zoning jurisdiction for which the regulations governing permitted use of buildings and land, the height of buildings, the size of yards, and the intensity of use are uniform.
- 48. **DOG:** Any canine specie over six (6) months of age.
- 49. **DWELLING:** Any building, or portion thereof, designed or used primarily for residential purposes, including residential-design manufactured homes and modular homes.
- 50. **DWELLING, MULTI-FAMILY:** A building, or portion thereof, arranged, intended or designed for occupancy by two (2) or more families.
- 51. **DWELLING, SEASONAL:** A residence intended for occasional, but not permanent, occupancy.
- 52. **DWELLING, SINGLE-FAMILY:** A building having accommodations for and occupied exclusively by one family. A residential-design manufactured home shall be considered a single-family dwelling.
- 53. **DWELLING, TWO-FAMILY:** A building, or portion thereof, arranged, intended or designed for occupancy by two families.
- 54. **DWELLING UNIT:** A building, or part thereof, containing complete housekeeping facilities for one family.
- 55. **EASEMENT:** A grant by a property owner to specific persons or to the public to use land for a specific purpose or purposes. Also, a right acquired by prescription.
- 56. **ESTABLISHED SETBACK:** The average setback on each street on which a lot fronts established by three (3) or more buildings; provided, only those properties that are within the same district and within 300 feet on each side of said lot along the same side of the street, but not beyond any intersecting street, are used in determining the established setback.
- 57. **EXOTIC BIRDS OR ANIMALS:** Birds or animals not commonly kept domestically or that are not native to Osage County and/or the United States. Exotic birds or animals includes, but are not limited to, bears, lions, tigers, cougars, wolves, half-breed wolves, and snakes. Birds in the ratite family, llamas and bison or North American buffalo shall not be considered as exotic birds or animals.
- 58. **FAMILY:** One (1) or more persons related by blood or marriage or adoption, living together as a single housekeeping unit plus usual domestic servants; or a group of not more than four (4) unrelated persons living together as a single housekeeping unit. This shall not include a “group home” as defined herein.
- 59. **FAMILY BURIAL PLOT, PRIVATE:** A plot of ground on private property used for the purpose of the burial of the physical remains of a family member; but not the interment of an urn or the spreading of ashes of the cremated remains of a person.

## ARTICLE 1: TITLE, PURPOSE, DEFINITIONS, DISTRICT AND GENERAL REGULATIONS

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60. **FAMILY DAY CARE HOME:** A facility licensed by the State of Kansas to provide children under eighteen (18) years of age with food and lodging for less than twenty-four (24) hours per day. This term is further construed to include similar units with different names.
61. **FARMERS MARKET:** The seasonal selling or offering for sale at retail of home-grown vegetables or produce, occurring in a pre-designated area, where the vendors are generally individuals who have raised the vegetables or produce, or have taken the same on consignment for retail sale.
62. **FEED LOT, COMMERCIAL:** A livestock feedlot or feedyard as defined by K.S.A. 47-1501 et seq, licensed by and operated under standards set forth by the State of Kansas.
63. **FLOOD PLAIN:** That area of land subject to inundation of water as a result of what is commonly known as the 100-year flood.
64. **FLOOR AREA:** The square foot area of all space within the outside line of a wall, including the total area of all floor levels, but excluding porches, garages, or unfinished space in a basement or cellar.
65. **FOSTER HOME:** A facility licensed by the State of Kansas for the care of four (4) or less persons unrelated to the operator(s).
66. **FRONT:** The part or side of any building or structure facing the street or frontage road which is used as the basis for establishing the permanent address for the building or structure.
67. **FRONTAGE:**
- a. **Street Frontage:** All of the property on one side of a street between two intersecting streets (crossing or terminating), measured along the line of the street; or if the street is dead-ended, then all of the property abutting on one side between an intersecting street and the dead-end of the street.
  - b. **Lot Frontage:** The distance for which the front boundary line of the lot and the right-of-way are coincident.
68. **GOVERNING BODY:** The Board of County Commissioners of Osage County, Kansas.
69. **GROUP HOME:** Any dwelling occupied by not more than ten (10) persons, including eight (8) or fewer persons with a disability 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, which dwelling is licensed by a regulatory agency of the State of Kansas. For purposes of this definition, disability shall mean:
- a. A condition, with respect to a person, which means:
    - 1) A physical or mental impairment which substantially limits one or more of such persons major life activities;
    - 2) A record of having such an impairment; or,
    - 3) Being regarded as having such an impairment.

Such terms do not include current, illegal use or addiction to a controlled substance, as defined in Section 102 of the Controlled Substance Act (21 U.S.C. 802).



## ARTICLE 1: TITLE, PURPOSE, DEFINITIONS, DISTRICT AND GENERAL REGULATIONS

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- 70. **GROUP DAY CARE HOME:** A facility licensed by the State of Kansas for the care of seven (7) to twelve (12) children under fourteen (14) years of age, and which is maintained for less than twenty-four (24) hours per day.
- 71. **GUEST HOUSE:** Living quarters within a detached accessory building located on the same premises with the main building for use by temporary guests of the occupants of the premises, such quarters having no kitchen facilities or separate utilities and not rented or otherwise used as a separate dwelling.
- 72. **HAZARDOUS WASTE:** Any waste meeting the definition of K.S.A. 65-3430 and amendments thereto.
- 73. **HAZARDOUS WASTE DISPOSAL FACILITY:** Any facility which meets the requirements as defined in K.S.A. 65-3430, as amended.
- 74. **HOME OCCUPATION:** An occupation or business activity which is clearly incidental and secondary to the use of the premises for dwelling.
- 75. **INDUSTRIAL LANDFILL:** A permitted solid waste disposal area used exclusively for the disposal on land of industrial solid waste.
- 76. **INDUSTRIAL PARK:** A special or exclusive type of planned industrial area designated and equipped to accommodate a community of industries, providing them with all necessary facilities and services in attractive surroundings among compatible neighbors. Industrial parks may be promoted or sponsored by private developers, community organizations, or governmental organizations.
- 77. **INDUSTRIAL SOLID WASTE:** Non-toxic, non-hazardous solid waste generated from industrial processing and acceptable as material for disposal in an industrial landfill as determined by the Kansas Department of Health and Environment.
- 78. **INOPERABLE VEHICLE:** Any vehicle that is unable to operate or move under its own power. It shall also mean any vehicle that is in an abandoned, wrecked, dismantled, scrapped, junked, or partially dismantled condition which includes having uninflated tires, no wheels, or lacking other parts necessary for the normal operation of the vehicle. It shall also mean any vehicle that because of mechanical defects, a wrecked or partially wrecked frame or body or dismantled parts, cannot be operated in a normal, and safe manner. An inoperable vehicle shall not include vehicles needing only the installation of a battery or the addition of fuel in order to operate.
- 79. **INTENSITY:** The degree or level of concentration to which land is used for commercial, industrial or any other nonresidential purpose.
- 80. **JUNK:** Old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber debris, waste, or junked, dismantled, or wrecked motor vehicles, or parts thereof, iron, steel and other old or scrap ferrous or nonferrous material.
- 81. **JUNKYARD:** An establishment which is maintained, operated, or used for storing, keeping, buying, or selling junk, or for the maintenance or operation of a motor vehicle graveyard. This term shall include salvage yards.

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82. **KENNEL, BOARDING:** Any place, area, building or structure where dogs (including those under one year of age) are boarded, housed, cared for, fed or trained by other than the owner.
83. **KENNEL, BREEDER:** Any place, area, lot, building or structure where more than four dogs are kept for any purposes.
84. **LANDSCAPING:** The improvement of a lot, parcel or tract of land with grass, shrubs and/or trees. Landscaping may include pedestrian walks, flowerbeds, ornamental features such as fountains, statuary, and other similar natural and artificial objects designed and arranged to produce an aesthetically pleasing effect.
85. **LIVESTOCK SALES YARD:** An enclosure or structure designed or used for holding livestock for purpose of sale or transfer by auction, consignment, or other means.
86. **LOT:** A parcel of land occupied or intended for occupancy by a use permitted in these Regulations, including one (1) main building or unit group of buildings together with permitted accessory buildings and required yard areas and parking spaces, having its principal frontage upon a public street. A lot may include one (1) or more platted lots or metes and bounds described tracts, but must be under single ownership and, when more than one (1) parcel, be contiguous.
87. **LOT AREA:** The area of a horizontal plane bounded by the front, side and rear lot lines, excluding any road right-of-way or road easements.
88. **LOT, CORNER:** A lot abutting upon two or more streets at their intersection.
89. **LOT COVERAGE:** The percentage of a lot which, when viewed directly from above, would be covered by a structure or structures or any part thereof, excluding projecting roof eaves.
90. **LOT, DEPTH OF:** The horizontal distance between the front and rear lot lines measured in the mean direction of the side lot lines.
91. **LOT, DOUBLE FRONTAGE:** A lot having a frontage on two non-intersecting streets, as distinguished from a corner lot.
92. **LOT INTERIOR:** A lot whose side line or lines do not abut upon any street.
93. **LOT LINES:** The lines bounding a lot as defined herein.
94. **LOT OF RECORD:** A lot which is part of a subdivision, the plat of which has been recorded in the office of the County Register of Deeds, or a parcel of land, the deed of which was recorded prior to the adoption of these Regulations.
95. **LOT, WIDTH OF:** The distance, measured on a horizontal plane, between the side lot lines, measured at right angles to the lot depth at the established front building line.
96. **LOT, ZONING:** A parcel or tract of land used, developed, or built as a unit under single ownership or control. Said zoning lot may consist of one or more lots of record, one or more portions of a lot or lots of record, or any combination thereof.
97. **MANUFACTURE:** Any method of processing, developing, fabricating or assembling either raw material, semi-finished materials or parts into semi-finished or finished products.

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98. **MANUFACTURED HOME:** A dwelling unit substantially assembled in an off-site manufacturing facility for installation or assembly at the dwelling site, bearing a label certifying that it was built in compliance with National Manufactured Home Construction and Safety Standards (24 CFR 3280 et seq) promulgated by the U.S. Department of Housing and Urban Development.
99. **MANUFACTURED HOME PARK:** An area, parcel, tract, or plot of ground equipped as required for support of manufactured homes and used or intended to be used by two or more occupied manufactured homes, provided the manufactured home spaces shall not be sold or offered for sale individually. The term “manufactured home park” does not include sale lots on which unoccupied manufactured homes, whether new or used, are parked for the purpose of storage, inspection or sale.
100. **MANUFACTURED HOME, RESIDENTIAL-DESIGN:** A manufactured home on a permanent foundation which has (A) minimum dimensions of 22 body feet in width, (B) a pitched roof, and (C) siding and roofing materials which are customarily used on site-built homes.
101. **MOBILE HOME:** A transportable, factory-built structure designed to be used as a year-round residential dwelling, built prior to enactment of the National Manufactured Home Construction and Safety Standards Act, which became effective June 15, 1976, or which fails to meet this standard.
102. **MODULAR HOME:** A dwelling structure located on a permanent foundation and connected to public utilities consisting of preselected, prefabricated units or modules, and transported to and/or assembled on the site of its foundation; in contradistinction to a dwelling structure which is custom-built on the site of its permanent location, and also in contradistinction to a manufactured home or a residential-design manufactured home.
103. **MOTOR VEHICLE:** A motorized vehicle with rubber tires for use on highways, including passenger cars, pick-ups and trucks.
104. **MOTOR VEHICLE GRAVEYARD:** Any establishment which is maintained, used, or operated for storing, keeping, buying, or selling three (3) or more wrecked, scrapped, ruined, dismantled or inoperative motor vehicles. A motor vehicle graveyard shall not include any location where motor vehicle bodies are placed along stream banks for purposes of bank stabilization and soil erosion control, if such placement conforms with guidelines established by the Chief Engineer of the Division of Water Resources of the State Board of Agriculture and has been permitted accordingly.
105. **NONCONFORMING BUILDINGS, LAND AND/OR USE:** The use of a building or land which was lawful at the time these Regulations became effective but which, because of the passage of these Regulations, does not conform to the regulations of the district in which it exists.
106. **NONCONFORMING LOT:** An unimproved lot which does not comply with the lot size requirements for any permitted use in the district in which it is located.
107. **NURSING OR CONVALESCENT HOME:** An institution or agency licensed by the State for the reception, board, care or treatment of five (5) or more unrelated individuals, but not including group boarding homes for minors or group homes for adults.
108. **OPEN SPACE:** Useable open space designed and intended for use by all residents of a residential area, including publicly dedicated space.

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- 109. **OVERLAY DISTRICT:** A district which acts in conjunction with the underlying zoning district or districts.
- 110. **OWNER:** Any person, group of persons, firm or firms, corporation or corporations, or any other legal entity having legal title to a tract of land.
- 111. **PARKING LOT:** An area, other than a private parking area, street or alley, used for parking of motor vehicles and available for public or semi-public use.
- 112. **PARKING SPACE:** Any area surfaced for all-weather use, including gravel, sand, or comparable materials, used for the purpose of storing one parked motor vehicle.
- 113. **PERSON:** Any individual, partnership, joint venture, corporation, or other business or legal entity.
- 114. **PLANNING COMMISSION:** The Joint Planning Commission of Osage County, Kansas.
- 115. **PRESCHOOL:** A facility licensed by the State of Kansas to provide daytime care and instruction for children between the age of thirty (30) months and the age at which the children are eligible to attend kindergarten. This term is further construed to include “Day Nursery School” and other similar uses.
- 116. **RECREATIONAL EQUIPMENT:** An item which is not used in connection with customary accessory residential uses on a lot. Included in the meaning of recreational equipment are such large items as slide-in campers, boat trailers, hang gliders, ski jets, houseboats, pontoons, and boats over fourteen (14) feet in length which require a trailer for transportation.
- 117. **RECREATIONAL OR SPORTS-RELATED ACTIVITIES OR FACILITIES:** Any lot, plot, parcel or tract of land and/or water; and/or any building or structure, or combination thereof; planned, intended or designed for recreational use. Said activities and/or facilities shall include, but not be limited to, such things as: athletic fields, ball diamonds, golf courses, golf driving ranges, miniature golf courses, swimming pools, natatoriums, tennis courts, racquetball courts, recreational lakes, marinas, racetracks, drag strips, gun clubs, hunting reserves, sporting clay ranges, private shooting ranges, and all common appurtenant accessory activities and facilities such as lighting, bleachers, and concession stands, etc.
- 118. **RECREATIONAL VEHICLE:** A vehicular-type unit built on or for use on a chassis and designed as living quarters, both permanent and temporary, for recreational, camping or travel use, and which has its own motive power, or is mounted on, or which can be drawn by another vehicle. The term recreational vehicle shall include, but not be limited to, motor homes, travel trailers, camper trailers, pickup truck campers, hauling trailers, and camper buses.
- 119. **RECREATIONAL VEHICLE CAMPGROUND:** A lot or tract of land designed for occupancy by recreational vehicles for temporary or transient living purposes, including the use of camping spaces for tents.
- 120. **RESIDENTIAL CENTER:** A non-secure facility licensed by the State of Kansas providing residential care for more than ten (10) persons unrelated to the operator(s).

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- 121. **RESTAURANT:** A building wherein food is prepared and sold to the public for human consumption. Restaurant includes, but is not limited to, cafe, cafeteria, grill, pizza parlor, diner, snack shop, hamburger shop and steak house.
- 122. **RIGHT-OF-WAY:** A strip of land dedicated or reserved for use as a public way which normally includes streets, sidewalks, or other public utility or service area.
- 123. **SALE, RETAIL:** The sale of goods, merchandise and/or commodities to the ultimate consumer.
- 124. **SALE, WHOLESALE:** The sale of goods for resale, or the sale of goods produced or processed from raw materials which require bulk delivery of the product.
- 125. **SANITARY LANDFILL:** A disposal site in which the method of disposing of solid waste and/or industrial solid waste is by landfill, dump or pit and which has a solid waste disposal permit issued under K.S.A. 65-3401 et seq., and amendments thereto.
- 126. **SCHOOL:** Any building or buildings housing public or private elementary, junior high, high school, college, university, post-graduate, technical or vocational school, offering courses in general instruction at least five days per week and seven months per year.
- 127. **SCREENING:** Fencing or vegetation maintained for the purpose of concealing from view.
- 128. **SETBACK:** The distance between a building and the lot line, or road easement line, whichever provides the desired minimum distance.
- 129. **SIGN:** See Article 14.
- 130. **SOLAR ENERGY CONVERSION SYSTEM – PRIVATE:** means a solar collection facility that converts sunlight into electricity, whether by photovoltaics (PV), or other similar conversion technology, for the primary purpose of the private use of generated electricity with a rated capacity of less than 30 kilowatt (kW) of solar energy capacity. Associated support facilities, such as battery energy storage equipment, shall be included in this definition.
- 131. **SOLID WASTE:** Garbage, refuse and other discarded materials including, but not limited to solid, semisolid, sludge, liquid and contained gaseous waste materials resulting from commercial, agricultural and domestic activities. Such term shall not include hazardous wastes.
- 132. **STOCKYARD, COMMERCIAL:** A penned enclosure, or structure, where livestock are maintained temporarily for the purpose of slaughtering, marketing or shipping.
- 133. **STORY:** That portion of a building, other than a basement, included between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, then the space between the floor and the ceiling next above it.
- 134. **STORY, HALF:** A story under a gable, hip or gambrel roof of which the wall plates on at least two opposite exterior walls are not more than 2 feet above the floor of such story.
- 135. **STREET:** An easement or right-of-way, other than an alley, which provides principal access to adjacent properties.
- 136. **STRUCTURE:** Anything constructed or erected which requires location on the ground, or attached to something having a location on the ground.

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137. **TOWNHOUSE:** A single-family dwelling constructed as part of a series of dwellings, all of which are either attached to the adjacent dwelling or dwellings by party walls or are located immediately adjacent thereto with no visible separation between walls or roofs.
138. **TRANSFER STATION:** A facility, including land and buildings, used for the handling and processing of solid waste to be bundled, bailed or otherwise packaged for transport to another site for disposal in a solid waste landfill. Transfer station can include material recovery operations, recycling facilities and any other ancillary and/or accessory operation associated with the management of solid waste.
139. **USE:** The specific purpose for which land or a building is used.
140. **USEABLE OPEN SPACE:** Land or water which is free of buildings, structures and/or substantial improvements and which is readily accessible by the public or residents of a residential development. Useable open space does not include streets, alleys, off-street parking or loading areas, roofs, or slopes in excess of 50 percent.
141. **VISIBILITY TRIANGLE:** The triangular area formed by the intersecting street right-of-way lines and a straight line joining said street right-of-way lines at points which are thirty (30) feet distant from the point of intersection, measured along said right-of-way lines.
142. **WIND ENERGY CONVERSION SYSTEM:** The combination of mechanical and structural elements used to produce electricity by converting the kinetic energy of wind to electrical energy. Wind Energy Conversion Systems consist of the turbine apparatus and any other buildings, support structures and other related improvements necessary for the generation of electric power from wind.
143. **WIND ENERGY CONVERSION SYSTEM – PRIVATE:** means a wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of not more than 30 kilowatts (kW), which is less than 120 feet in height above grade and which is intended to primarily reduce on-site consumption of utility power..
144. **YARD:** A required open space, other than a court, unoccupied and unobstructed by any structure or portion of a structure from the general ground level of the graded lot upward; provided, however, that fences, walls, poles, posts and other customary yard accessories, ornaments and furniture may be permitted in any yard, subject to height limitations and requirements limiting obstruction of visibility.
145. **YARD, FRONT:** A yard extending across the full width of the lot, the depth of which is the least distance between the lot line or road easement or right-of-way line and the front building line.
146. **YARD, REAR:** A yard extending across the full width of the lot between the rear building line and the rear lot line, the depth of which is the least distance between the rear lot line and the rear building line.
147. **YARD, SIDE:** A yard between the side building line and the side line of the lot and extending from the front yard to the rear yard and being the least distance between the side lot line and the side building line.



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- 148. **ZONE OR DISTRICT:** A section of the zoning area for which uniform regulations governing the use, height, area, size and intensity of use of buildings, land and open space about buildings are herein established.
- 149. **ZONING ADMINISTRATOR:** The person or persons authorized and empowered by the Governing Body to administer the requirements of these Regulations.

**1-105 DISTRICTS:**

In order to regulate and restrict the use of land and the location of buildings erected or altered for specific uses, to regulate and limit the height and bulk of buildings hereafter erected or structurally altered, to regulate and limit population density and the intensity of the use of lot areas, and to regulate and determine the areas of yards, courts, and other open spaces surrounding such buildings, the unincorporated portion of Osage County is hereby divided into districts of which they shall be in number known as:

"AG"	Agricultural District
"SR"	Suburban Residential District
"R-1"	Single-Family Residential District
"V-1"	Village District
"FRD"	Floodwater Retarding Dam Breach Impact Overlay District
"FP"	Floodplain Overlay District
"AO"	Airport Overlay District

At the time of initial adoption, all lands within the unincorporated portion of Osage County, Kansas, shall be granted zoning consistent with the size of the property as specified within the zoned districts established herein. (i.e. All properties over 40 acres shall be zoned "AG" Agricultural; properties between 1 acre and 40 acres shall be zoned "SR" Suburban Residential, etc.) However, certain properties are hereby granted a "Conditional Use" without the benefit of an approved development plan as specified within these Regulations. Those properties granted Conditional Uses shall be those properties which have a legally established land use activity at the time of the adoption of these Regulations and which would require a Conditional Use in order to be established new under the terms of these Regulations. Further, said uses granted a Conditional Use upon the initial adoption of these Regulations shall be permitted to expand, enlarge or otherwise enhance said use on that land contiguous to and owned by the same person at the time of the establishment of this rule. (Example: A landowner is operating a cattle feeding operation that would require a Conditional Use under these Regulations if it were proposed new shall be granted a Conditional Use at the time of the adoption of these Regulations and, further, may expand that operation on any portion of the contiguous land he owned at the time the Regulations were first adopted).

- 1. Such land, and the district classification thereof, shall be shown on maps, aerial photos, computer records or other documents deemed appropriate by Osage County, Kansas, and such maps, aerial photos, computer records or other documents shall be designated as the "Official Zoning Maps of Osage County, Kansas." Said Zoning Maps, and all symbols, notations, dimensions, and references shown thereon or contained therein pertaining to the established zoning districts shall be as much a part of these Regulations as if they were fully described herein, and shall be filed as part of these Regulations with the Zoning Administrator of Osage County. Said maps or other documents shall be available for inspection in the office of the Zoning Administrator and any later alterations of

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these maps or other documents, adopted by amendment as provided by these Regulations, shall be filed and made available for public reference. The above-stated maps or other documents shall hereinafter be referred to as the “maps” in these Regulations.

2. When uncertainty exists with respect to the boundaries of the various districts as shown on the maps accompanying and made a part of these Regulations, the following rules shall apply:
  - A. In cases where a boundary line is given a position within a street or alley, or navigable or non-navigable stream, it shall be deemed to be in the center of the street, alley, or stream; and if the actual location of such street, alley, or stream varies slightly from the location as shown on the maps, then the actual location shall control.
  - B. In cases where a boundary line is shown as being located a specific distance from a street line or other physical feature, this distance shall control.
  - C. In cases where a boundary line is shown adjoining or coincident with a railroad, it shall be deemed to be in the center of the railroad right-of-way and distances measured from a railroad shall be measured from the center of such right-of-way.
  - D. Where the district boundaries are not otherwise indicated and where the property has been, or may hereafter be, divided into blocks and lots, the district boundaries shall be construed to be the lot lines, and where the districts designated on the maps accompanying and made a part of these Regulations are bounded approximately by lot lines, said lot lines shall be construed to be the boundary of such districts unless said boundaries are otherwise indicated on the maps or by Resolution of the Governing Body.
  - E. In unsubdivided property, unless otherwise indicated, the district boundary line on the maps or other documents and/or records accompanying and made a part of these Regulations shall be determined by the use of the scale contained on such maps.
  - F. When a lot held in one ownership on the effective date of these Regulations is divided by a district boundary line, the entire lot shall be construed to be within the less restrictive district; unless otherwise indicated on the maps or by Resolution of the Governing Body.
3. Where a district boundary follows a street, alley, watercourse or other right-of-way, in case of the vacation of said street, alley, watercourse or other right-of-way, the abutting zoning classification of each side thereof shall automatically be extended to the center line of said vacated street, alley, watercourse or right-of-way. Two districts shall be deemed to adjoin even though separated by a public way or portion thereof.

### 1-106 GENERAL REGULATIONS GOVERNING ALL ZONING DISTRICTS:

1. Except as hereinafter provided:
  - A. Land may be used only for those purposes permitted in the district in which it is located.
  - B. Building(s) shall be erected, converted, enlarged, reconstructed, moved, structurally altered, or used only for those uses permitted in the district in which the building(s) is located.



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- C. Building(s) shall be erected, converted, enlarged, reconstructed, moved or structurally altered in conformance with the height, area and bulk regulations herein established for the district in which the building(s) is located.
  - D. If a use in any structure is hereafter changed to another, then the new use must comply with the use regulations of these Regulations.
  - E. The minimum yards, parking spaces, open spaces, including lot area per family, required by these Regulations for building(s) existing at the time of the passage of these Regulations, or of any building(s) hereafter erected, shall not be encroached upon or considered as required yard or open space for any other building, nor shall any lot area be reduced below the requirements of these Regulations.
  - F. Every building hereafter erected or structurally altered shall be located on a lot as herein defined and, except as hereinafter provided, in no case shall there be more than one main building on one lot.
  - G. Nothing contained in these Regulations shall be deemed to be consent, license or permit to use any property; to locate, construct or maintain any structure or facility; or to carry on any trade, industry, occupation or activity.
2. All lands used for agricultural purposes as defined within these Regulations, including those agricultural activities that are designated as accessory uses to rural residential uses, are located within an area where land is used for commercial agricultural production. Owners, residents, and other users of this property or neighboring properties may be subjected to inconvenience, discomfort, and the possibility of injury to property and health arising from normal and accepted agricultural practices and operations, including but not limited to, noise, odors, dust, the operation of machinery of any kind, including aircraft, the storage and disposal of manure, and the application of fertilizers, soil amendments, herbicides and pesticides. Owners, occupants, and users of this property and neighboring properties should be prepared to accept such inconveniences, discomfort, and possibility of injury from normal agricultural operations, and are hereby put on official notice that K.S.A. 2-3201 et seq, the “right-to-farm law”, may bar them from obtaining a legal judgment against such normal agricultural operations.

### 1-107 VESTING OF DEVELOPMENT RIGHTS:

In conformance with the provisions of K.S.A. 12-764, and any subsequent amendments, the following shall apply:

- 1. The rights of landowners of properties platted or subdivided for non-agricultural residential development shall be protected for use of said land for the intended non-agricultural residential purposes for a period of five (5) years from the time in which such property was first platted or subdivided, provided:
  - A. For property that was not formally platted, verifiable evidence is presented showing the date in which said plat or subdivision of land was first created. Acceptable evidence shall be: signed and sealed certificates or plats of survey from a Registered Land Surveyor showing the several lots proposed to be created, either dated or dated and recorded with

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- the Register of Deeds; recorded Restrictive or Protective Covenants for the development; recorded deeds conveying land; or recorded Affidavits of Equitable Interest on contracts for deed for said tracts of land.
- B. Within said five (5) year period actual sales occur resulting in separate owners on the tracts of land.
  - C. The division of land was legally done in conformance with the applicable laws of the State of Kansas. Further, no divisions of land, publicly recorded and dated after January 1, 1992, shall be eligible unless said divisions were in conformance with the requirements of the applicable Osage County Subdivision Regulations.
- 2. Except for lots in a recorded plat, any remaining contiguous tracts of land within the area divided under this rule held in common ownership at the conclusion of said five (5) year period shall be considered an unplatted lot, as defined in these Regulations, and subsequent divisions of said lot shall be in conformance with the Subdivision Regulations then in effect.
  - 3. Properties divided or platted for any use other than agricultural or residential purposes shall not be permitted to develop or further develop except in conformance with these Regulations and the Osage County Subdivision Regulations.
  - 4. Notwithstanding the provisions of this section, all individual lots or tracts of land that are identified by individual deed as of the effective date of these Regulations, and amendments thereto, shall retain the right to be considered as a buildable lot under these Regulations and the Osage County Subdivision Regulations provided said lot or tract of land can meet the requirements of the Osage County Environmental Code. This provision shall not enable owners of lots or tracts of land to divide such properties except in conformance with these Regulations.

## ARTICLE 2: “AG” AGRICULTURAL DISTRICT REGULATIONS

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### SECTIONS:

#### **2-101 APPLICATION**

#### **2-102 USE REGULATIONS**

#### **2-103 PERFORMANCE STANDARDS**

#### **2-104 PARKING REGULATIONS**

#### **2-105 OFF-STREET LOADING REGULATIONS**

#### **2-106 SIGN REGULATIONS**

#### **2-107 HEIGHT, AREA AND BULK REGULATIONS**

#### **2-108 SUPPLEMENTARY HEIGHT, AREA AND BULK REGULATIONS**

#### **2-109 SUPPLEMENTARY USE REGULATIONS**

#### **2-101 APPLICATION**

The regulations set forth in this Article, or set forth elsewhere in these Regulations when referred to in this Article, are the regulations in the “AG” Agricultural District. This article shall apply to lands within the unincorporated portion of Osage County, Kansas, as specified within these Regulations.

The purpose of this District is to provide for a full range of agricultural activities by family farms on land used for agricultural purposes, including processing and sale of agricultural products raised on the premises; and at the same time offer protection to land used for agricultural purposes from the depreciating effect of objectionable, hazardous, incompatible and unsightly uses. The District is also intended to protect watersheds and water supplies; to protect the use of natural resources in the production of agricultural products and prevent and/or discourage their conversion to other uses not in the interests of the citizens of Osage County; to protect forest and scenic areas; to conserve fish and wildlife habitat; to promote forestry; and to prevent and/or discourage untimely scattering of residential, and/or more dense urban development. Further, the purpose of this District is to accommodate the establishment of residential lots at a very low intensity to maintain the predominately agricultural character.

All lands used for agricultural purposes, as defined in these Regulations, are and shall be exempt from any and all restrictions or limitations. No administrative interpretation shall be made that results in any restriction or stipulation on land used for agricultural purposes as herein defined; provided, however that consistent with state law, new agricultural buildings shall be subject to floodplain regulations and to setback requirements on that part of agricultural lands fronting on designated major roads and highways. Any proposal for change of land used for agricultural purposes to nonagricultural uses shall be subject to the requirements of these Regulations.

#### **2-102 USE REGULATIONS**

In District “AG”, no building, structure, land or premises shall be used and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, except for one or more of the following uses:

1. Agricultural uses.
2. Grain storage structures.

## **ARTICLE 2: “AG” AGRICULTURAL DISTRICT REGULATIONS**

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3. Wellhead stations, well separators, tank batteries or other similar above ground facilities used merely for distribution, transmission or temporary storage of oil or natural gas.
4. Oil and/or gas well drilling operations, and temporary on-site storage of oil and gas field-related equipment and supplies, but not a junk yard.
5. Single family dwellings.
6. Group Homes as defined in these Regulations.
7. Manufactured homes, both single-wide and double-wide units, not meeting the requirements of the residential-designed manufactured homes, as defined in these Regulations.
8. Railroad rights of way, including a strip of land with tracks and auxiliary facilities for track operations, but not including passenger stations, freight terminals, switching and classification yards, repair shops, roundhouses, powerhouses, interlocking towers, and fueling, sanding and watering stations.

### **2-103 PERFORMANCE STANDARDS**

The Performance Standards for permitted uses are contained in Article 11 of these Regulations.

### **2-104 PARKING REGULATIONS**

The Parking Regulations for permitted uses are contained in Article 12 of these Regulations.

### **2-105 OFF-STREET LOADING REGULATIONS**

The Off-Street Loading Regulations for permitted uses are contained in Article 13 of these Regulations.

### **2-106 SIGN REGULATIONS**

The Sign Regulations are contained in Article 14 of these Regulations.

### **2-107 HEIGHT, AREA AND BULK REGULATIONS**

In the “AG” Agricultural District, the minimum dimensions of yards required along designated major roads and highways in Osage County shall be as follows:

1. Front Yard: The depth of the front yard for properties on major roads or highways shall be at least 75 feet.
2. Side Yard: For properties on major roads or highways, there shall be a side yard on each side of a dwelling. No side yard shall be less than 50 feet.
3. Rear Yard: The depth of the rear yard for properties on major roads or highways shall be at least 50 feet.
4. Lot Area: Except as provided below, every lot shall be a minimum of 40 acres. A lot described as a quarter/quarter (i.e. 1/4 of 1/4 of a section) or as a Government Lot from the original government survey shall be deemed to meet the lot size requirements for the “AG” Agricultural District even though said lot may net less than a full 40 acres.

## ARTICLE 2: “AG” AGRICULTURAL DISTRICT REGULATIONS

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5. Intensity of Use: A maximum of two (2) dwellings may be established for each forty (40) contiguous acres owned. The forty (40) contiguous acres may be described as a “quarter/quarter” (i.e. 1/4 of 1/4 of a section) or as a Government Lot, even though such properties may not “net” a full forty (40) acres of land. A minimum of one (1) acre of land with a minimum of 165 feet of lot width must be provided for each dwelling. If owned separately, the maximum lot size of the second dwelling unit shall be three (3) acres. The dwellings may be located next to one another in the same general location on the property.
6. Lot Dimensions: The minimum width of a lot shall be 660 feet. The minimum depth of a lot shall be 660 feet. There shall not be a lot width to lot depth ratio greater than 1:4 (i.e. the depth of the lot cannot be greater than 4 times the width of the lot). In the event of unusual lot configurations, the Zoning Administrator shall determine whether the lot dimensions meet the spirit and intent of this requirement.

The Area and Bulk Regulations are also set forth in the chart of Article 15. Said chart, and all notations and requirements shown therein, shall have the same force and effect as if all the notations and requirements were fully set forth or described herein.

### **2-108 SUPPLEMENTARY HEIGHT, AREA AND BULK REGULATIONS**

The Supplementary Height, Area and Bulk Regulations are contained in Article 16 of these Regulations.

### **2-109 SUPPLEMENTARY USE REGULATIONS**

The Supplementary Use Regulations, including permitted Conditional Uses and Accessory Uses, are contained in Article 17 of these Regulations.

**(Reserved for Future Use)**

## ARTICLE 4 “SR” SUBURBAN RESIDENTIAL DISTRICT REGULATIONS

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### SECTIONS:

- 4-101 APPLICATION**
- 4-102 USE REGULATIONS**
- 4-103 PERFORMANCE STANDARDS**
- 4-104 PARKING REGULATIONS**
- 4-105 OFF-STREET LOADING REGULATIONS**
- 4-106 SIGN REGULATIONS**
- 4-107 HEIGHT, AREA AND BULK REGULATIONS**
- 4-108 SUPPLEMENTARY HEIGHT, AREA AND BULK REGULATIONS**
- 4-109 SUPPLEMENTARY USE REGULATIONS**

### **4-101 APPLICATION**

The regulations set forth in this Article, or set forth elsewhere in these Regulations when referred to in this Article, are the regulations in the “SR” Suburban Residential District. The provisions of this district shall apply within the unincorporated portion of Osage County, Kansas, as specified within these Regulations.

The purpose of this District is to provide for the platted development of residential neighborhoods that promote the characteristics of a rural area at a low-density level of development. This district is designed to be used in those areas where the adequate provision of water and sewage disposal exists or can be provided; and where other infrastructure presently exists or can be demonstrated and proved to the satisfaction of the county. The density of any individual proposed development shall be determined by the adequacy of the site to meet the development standards and policies of these and all other Osage County rules and regulations, including but not limited to the Subdivision Regulations, Environmental/Sanitary Code, soil suitability classification, and other such factors that will justify and support such proposed density. The use of contemporary rural subdivision design practices and alternative support services are encouraged for development proposed in this district.

The burden of proof for such proposed density shall be on the person proposing the development and the county may require of said person any and all such proof deemed necessary before any approval of the project may be granted.

### **4-102 USE REGULATIONS**

In District “SR,” no building, structure, land or premises shall be used and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, except for one or more of the following uses:

1. Single family dwellings.
2. Group Homes as defined in these Regulations.
3. Residential-designed manufactured homes, as defined in these Regulations.
4. Wellhead stations, well separators, tank batteries or other similar above ground facilities used merely for distribution, transmission or temporary storage of oil or natural gas.

## ARTICLE 4 “SR” SUBURBAN RESIDENTIAL DISTRICT REGULATIONS

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5. Oil and/or gas well drilling operations, and temporary on-site storage of oil and gas field-related equipment and supplies, but not a junk yard.
6. Railroad rights of way, including a strip of land with tracks and auxiliary facilities for track operations, but not including passenger stations, freight terminals, switching and classification yards, repair shops, roundhouses, powerhouses, interlocking towers, and fueling, sanding and watering stations.

### 4-103 PERFORMANCE STANDARDS

The Performance Standards for permitted uses are contained in Article 11 of these Regulations.

### 4-104 PARKING REGULATIONS

The Parking Regulations for permitted uses are contained in Article 12 of this code.

### 4-105 OFF-STREET LOADING REGULATIONS

The Off-Street Loading Regulations for permitted uses are contained in Article 13 of this code.

### 4-106 SIGN REGULATIONS

The Sign Regulations are contained in Article 14 of this code.

### 4-107 HEIGHT, AREA AND BULK REGULATIONS

In the “SR” Suburban Residential District, the height of buildings, the minimum dimensions of lots and yards, and the minimum lot area per dwelling unit permitted on any lot shall be as follows:

1. Height: Nonagricultural buildings or structures shall not exceed 35 feet and/or 2 1/2 stories in height.
2. Front Yard: The depth of the front yard shall be at least 50 feet.
3. Side Yard: There shall be a side yard on each side of a dwelling. No side yard shall be less than 30 feet.
4. Rear Yard: The depth of the rear yard shall be at least 50 feet.
5. Minimum Lot Size and Dimensions: Every lot hereafter created shall provide a minimum lot area of 43,560 square feet or one (1) acre, but not more than a maximum lot area of 130,680 square feet or three (3) acres. The minimum width of a lot shall be 165 feet. The minimum depth of a lot shall be 250 feet. There shall not be a lot width to lot depth ratio greater than 3:1 (i.e. the depth of the lot cannot be greater than 3 times the width of the lot). In the event of unusual lot configurations, the Zoning Administrator shall determine whether the lot dimensions meet the spirit and intent of this requirement.
6. Lot Area Per Dwelling Unit: Every dwelling hereafter erected, constructed, reconstructed, moved or altered shall provide a minimum lot area of 43,560 square feet or one (1) acre, but not more than a maximum lot area of 130,680 square feet or three (3) acres per dwelling unit, unless said lot is a lot of record and conforms to the requirements of these Regulations and the Osage County Subdivision Regulations.



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The Height, Area and Bulk Regulations are also set forth in the chart of Article 15. Said chart, and all notations and requirements shown therein, shall have the same force and effect as if all the notations and requirements were fully set forth or described herein.

#### **4-108 SUPPLEMENTARY HEIGHT, AREA AND BULK REGULATIONS**

The Supplementary Height, Area and Bulk Regulations are contained in Article 16 of these Regulations.

#### **4-109 SUPPLEMENTARY USE REGULATIONS**

The Supplementary Use Regulations, including permitted Conditional Uses and Accessory Uses, are contained in Article 17 of these Regulations.

## ARTICLE 5 “R-1” SINGLE-FAMILY RESIDENTIAL DISTRICT REGULATIONS

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### SECTIONS:

#### 5-101 APPLICATION

#### 5-102 USE REGULATIONS

#### 5-103 PERFORMANCE STANDARDS

#### 5-104 PARKING REGULATIONS

#### 5-105 OFF-STREET LOADING REGULATIONS

#### 5-106 SIGN REGULATIONS

#### 5-107 HEIGHT, AREA AND BULK REGULATIONS

#### 5-108 SUPPLEMENTARY HEIGHT, AREA AND BULK REGULATIONS

#### 5-109 SUPPLEMENTARY USE REGULATIONS

### 5-101 APPLICATION

The regulations set forth in this Article, or set forth elsewhere in these Regulations when referred to in this Article, are the regulations in the “R-1” Single-Family Residential District. The provisions of this district shall apply within the unincorporated portion of Osage County, Kansas, as specified within these Regulations.

The purpose of this District is to provide for platted single-family residential development of a more urban character where public sanitary sewers and water, and other necessary public utilities and services are present to support the development. As such, it is intended to be used only where such public utilities and services are present to serve such development or where such utilities and services are to be provided by the developer as a part of the project, as approved by the Governing Body having jurisdiction. The District is also designed to protect and preserve existing development of a similar character.

### 5-102 USE REGULATIONS

In District “R-1,” no building, structure, land or premises shall be used and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, except for one or more of the following uses:

1. Single family dwellings.
2. Group Homes as defined in these Regulations.
3. Wellhead stations, well separators, tank batteries or other similar above ground facilities used merely for distribution, transmission or temporary storage of oil or natural gas.
4. Oil and/or gas well drilling operations, and temporary on-site storage of oil and gas field related equipment and supplies, but not a junk yard.
5. Railroad rights of way, including a strip of land with tracks and auxiliary facilities for track operations, but not including passenger stations, freight terminals, switching and classification yards, repair shops, roundhouses, powerhouses, interlocking towers, and fueling, sanding and watering stations.

## **ARTICLE 5 “R-1” SINGLE-FAMILY RESIDENTIAL DISTRICT REGULATIONS**

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### **5-103 PERFORMANCE STANDARDS**

The Performance Standards for permitted uses are contained in Article 11 of these Regulations.

### **5-104 PARKING REGULATIONS**

The Parking Regulations for permitted uses are contained in Article 12 of these Regulations.

### **5-105 OFF-STREET LOADING REGULATIONS**

The Off-Street Loading Regulations for permitted uses are contained in Article 13 of these Regulations.

### **5-106 SIGN REGULATIONS**

The Sign Regulations are contained in Article 14 of these Regulations.

### **5-107 HEIGHT, AREA AND BULK REGULATIONS**

In the “R-1” Single-Family Residential District, the height of buildings, the minimum dimensions of lots and yards, and the minimum lot area per dwelling unit permitted on any lot shall be as follows:

1. Height: Nonagricultural buildings or structures shall not exceed 35 feet and/or 2 1/2 stories in height.
2. Front Yard: The depth of the front yard shall be at least 30 feet.
3. Side Yard: There shall be a side yard on each side of a dwelling. No side yard shall be less than 15 feet.
4. Rear Yard: The depth of the rear yard shall be at least 20 feet.
5. Lot Dimensions: The minimum width of a lot shall be 100 feet. The minimum depth of a lot shall be 150 feet.
6. Lot Area Per Dwelling Unit: Every dwelling hereafter erected, constructed, reconstructed, moved or altered shall provide a minimum lot area of 20,000 square feet.

The Height, Area and Bulk Regulations are also set forth in the chart of Article 15. Said chart, and all notations and requirements shown therein, shall have the same force and effect as if all the notations and requirements were fully set forth or described herein.

### **5-108 SUPPLEMENTARY HEIGHT, AREA AND BULK REGULATIONS**

The Supplementary Height, Area and Bulk Regulations are contained in Article 16 of these Regulations.

### **5-109 SUPPLEMENTARY USE REGULATIONS**

The Supplementary Use Regulations, including permitted Conditional Uses and Accessory Uses, are contained in Article 17 of these Regulations.

## ARTICLE 6 “V-1” VILLAGE DISTRICT REGULATIONS

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### SECTIONS:

- 6-101 APPLICATION**
- 6-102 USE REGULATIONS**
- 6-103 PERFORMANCE STANDARDS**
- 6-104 PARKING REGULATIONS**
- 6-105 OFF-STREET LOADING REGULATIONS**
- 6-106 SIGN REGULATIONS**
- 6-107 HEIGHT, AREA AND BULK REGULATIONS**
- 6-108 SUPPLEMENTARY HEIGHT, AREA AND BULK REGULATIONS**
- 6-109 SUPPLEMENTARY USE REGULATIONS**

#### **6-101 Application**

The regulations set forth in this Article, or set forth elsewhere in these Regulations when referred to in this Article, are the regulations in the “V 1” Village District. This District is designed to encourage the continued existence of small unincorporated “villages” (i.e. townsites platted many years ago and intended to become cities, but which never incorporated or became cities) by placing few restrictions on their use and further residential development. No development of new “villages” is contemplated under these provisions and only fill in type development of existing “villages” with low intensity uses is intended.

#### **6-102 Use Regulations**

In District “V 1,” no building, structure, land or premises shall be used and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, except for one or more of the following uses:

1. Any use permitted in the “R-1” Single-Family Residential District.
2. All other uses, including any proposed commercial and industrial uses, shall require a Conditional Use Permit.

#### **6-103 Performance Standards**

The Performance Standards for permitted uses are contained in Article 11 of these Regulations.

#### **6-104 Parking Regulations**

The Parking Regulations for permitted uses are contained in Article 12 of these Regulations.

#### **6-105 Off-Street Loading Regulations**

The Off-Street Loading Regulations for permitted uses are contained in Article 13 of these Regulations.

#### **6-106 Sign Regulations**

The Sign Regulations are contained in Article 14 of these Regulations.

## ARTICLE 6 “V-1” VILLAGE DISTRICT REGULATIONS

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### 6-107 Height, Area and Bulk Regulations

In the “V 1” Village District, the height of buildings, the minimum dimensions of lots and yards, and the minimum lot area permitted on any lot shall be as follows:

1. Height: Buildings and structures shall not exceed 35 feet and/or 2 1/2 stories in height.
2. Front Yard: The depth of the front yard shall be at least 25 feet.
3. Side Yard: There shall be a side yard on each side of a building. No side yard shall be less than 5 feet.
4. Rear Yard: The depth of the rear yard shall be at least 20 feet.
5. Lot Dimensions: No minimum lot dimensions are established, however, it is anticipated that every lot shall provide sufficient setbacks as specified herein and still provide adequate building area.
6. Lot Area: No minimum lot area is established, however, it is expected that sufficient area will be provided to meet the requirements established herein and provide for the proper provision for safe water and the sanitary disposal of sewage in accordance with the Osage County Environmental/Sanitary Code.

The Height, Area and Bulk Regulations are also set forth in the chart of Article 15. Said chart, and all notations and requirements shown therein, shall have the same force and effect as if all the notations and requirements were fully set forth or described herein.

### 6-108 Supplementary Height, Area and Bulk Regulations

The Supplementary Height, Area and Bulk Regulations are contained in Article 16 of these Regulations.

### 6-109 Supplementary Use Regulations

The Supplementary Use Regulations, including permitted Conditional Uses and Accessory Uses, are contained in Article 17 of these Regulations.

## ARTICLE 7 “FPO” FLOODPLAIN OVERLAY DISTRICT REGULATIONS

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### Sections:

- 7-101 Purpose**
- 7-102 Findings of Fact**
- 7-103 General Provisions**
- 7-104 Administration**
- 7-105 Provisions for Flood Hazard Reduction**
- 7-106 Floodplain Management Variance Procedures**
- 7-107 Amendments**
- 7-108 Penalties**
- 7-109 Definitions**

### **7-101 Purpose**

In conformance with the provisions of K.S.A. 12-741 et seq and in particular K.S.A. 12-766, it is the purpose of this Article to promote the public health, safety and general welfare; to carry out the purposes of the National Flood Insurance Program as defined in 44 Code of Federal Regulations (CFR) 59.22(a)(3); to meet the requirements of 44 CFR 60.3(b) and K.A.R. 5-44-4; and to minimize those losses described in Section 7-102 by applying provisions designed to:

1. Restrict or prohibit uses which are dangerous to health, safety, or property in times of flooding, cause increased flood height beyond a one (1) foot rise in the 100-year surface elevation or cause increases in water velocities.
2. Require that uses vulnerable to floods, including public facilities which service such uses, be provided with flood protection at the time of initial construction.
3. Provide public information for evaluating land purchases that are unsuited for the intended development purposes due to flood hazards.
4. Assure that eligibility is maintained for property owners in the county to purchase flood insurance in the Federal Flood Insurance Program.

### **7-102 Findings of Fact**

1. The special flood hazard areas of Osage County, Kansas, are subject to inundation, which could result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.
2. These flood losses are caused by:
  - A. The cumulative effect of development in any delineated floodplain, causing increases in flood heights and velocities.
  - B. The occupancy of flood hazard areas by uses vulnerable to floods or hazardous to others and which are inadequately elevated or otherwise protected from flood damages.

## ARTICLE 7 “FPO” FLOODPLAIN OVERLAY DISTRICT REGULATIONS

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### 7-103 General Provisions

1. Land to which Regulations Apply. This Article shall apply to all lands within the unincorporated portion of Osage County, Kansas, identified as unnumbered A Zones on the Index Map dated August 9, 1977, of the Flood Hazard Boundary Map (FHBM) as amended, and any future revisions thereto. In all areas covered by this Article, no development shall be permitted except upon a floodplain development permit granted by the Zoning Administrator under the provisions established in Section 7 106 of this Article.
2. Rules for Interpretation of District Boundaries. The boundaries of the Floodplain Overlay Districts shall be determined by scaling distances on the floodplain maps. Where interpretation is needed to the exact location of the boundaries of the districts as shown on the floodplain maps, as, for example, where there appears to be a conflict between a mapped boundary and actual field conditions, the Zoning Administrator shall make the necessary interpretation. In such cases where the interpretation is contested, the Board of Zoning Appeals will resolve the dispute. The regulatory flood elevation for the point in question shall be the governing factor in locating the district boundary on the land. The person contesting the location of the district boundary shall be given a reasonable opportunity to present his case to the Zoning Administrator and/or Board of Zoning Appeals and to submit his own technical evidence, if he so desires.
3. Compliance. No structure or land shall hereafter be used and no structure shall be located, extended, converted or structurally altered without full compliance with the terms of this Article and other applicable regulations, except as established under Section 7 109.
4. Abrogation and Greater Restrictions. It is not intended by this Article to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this Article imposes greater restrictions, the provisions of this Article shall prevail. All other regulations inconsistent with this Article are hereby repealed to the extent of the inconsistency only, except as established under Section 7 106.
5. Interpretation. The provisions of this Article shall be held to be minimum requirements and shall not be deemed a limitation or repeal of any other powers granted by state statute.
6. Warning and Disclaimer of Liability. The degree of flood protection required by this Article is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur on rare occasions or the flood height may be increased by man made or natural causes, such as ice jams and bridge openings restricted by debris. This Article does not imply that areas outside boundaries or land uses permitted within such districts will be free from flooding or flood damages. This Article shall not create liability on the part of Osage County or any officer or employee thereof for any flood damages that may result from reliance on this Article or any administrative decision lawfully made thereunder.
7. Adoption of Maps. The Flood Hazard Boundary Maps dated August 9, 1977, and the are hereby adopted and incorporated by reference in this Article.

## ARTICLE 7 “FPO” FLOODPLAIN OVERLAY DISTRICT REGULATIONS

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### 7-104 Administration

1. **Floodplain Development Permit.** A floodplain development permit shall be required for all proposed construction or other development, including the placement of manufactured homes, in the areas described in Section 7-103. No person, firm, corporation, or unit of government shall initiate any development or substantial-improvement or cause the same to be done without first obtaining a separate floodplain development permit for each structure or other development.
2. **Designation of Floodplain Administrator.** The Land Use Coordinator is hereby appointed to administer and implement the provisions of these Regulations as the Floodplain Administrator.
3. **Duties and Responsibilities of Floodplain Administrator.** Duties of the Floodplain Administrator shall include, but not be limited to:
  - A. Review of all applications for floodplain development permits to assure that sites are reasonably safe from flooding and that the floodplain development permit requirements of these Regulations have been satisfied;
  - B. Review of all applications for floodplain development permits for proposed development to assure that all necessary permits have been obtained from Federal, State, or local governmental agencies from which prior approval is required by Federal, State, or local law;
  - C. Review all subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, to determine whether such proposals will be reasonably safe from flooding;
  - D. Issue floodplain development permits for all approved applications;
  - E. Notify adjacent communities and the Division of Water Resources, Kansas Department of Agriculture, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency (FEMA);
  - F. Assure that the flood-carrying capacity is not diminished and shall be maintained within the altered or relocated portion of any watercourse;
  - G. Verify and maintain a record of the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures;
  - H. Verify and maintain a record of the actual elevation (in relation to mean sea level) that the new or substantially improved non-residential structures have been floodproofed; and
  - I. When floodproofing techniques are utilized for a particular non-residential structure, the Floodplain Administrator shall require certification from a registered professional engineer or architect.
4. **Application for Floodplain Development Permit.** To obtain a floodplain development permit, the applicant shall first file an application in writing on a form furnished for that purpose. Every floodplain development permit application shall:
  - A. Describe the land on which the proposed work is to be done by lot, block and tract, house and street address, or similar description that will readily identify and specifically locate the



## ARTICLE 7 “FPO” FLOODPLAIN OVERLAY DISTRICT REGULATIONS

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proposed building or work;

- B. Identify and describe the work to be covered by the floodplain development permit;
- C. Indicate the use or occupancy for which the proposed work is intended;
- D. Indicate the assessed value of the structure and the fair market value of the improvement;
- E. Identify the existing base flood elevation and the elevation of the proposed development;
- F. Give such other information as reasonably may be required by the Floodplain Administrator;
- G. Be accompanied by plans and specifications for proposed construction; and
- H. Be signed by the permittee or his authorized agent who may be required to submit evidence to indicate such authority.

### 7-105 Provisions for Flood Hazard Reduction

#### 1. General Standards.

- A. No permit for floodplain development shall be granted for new construction, substantial-improvements, and other improvements, including the placement of manufactured homes, within any unnumbered A zone unless the conditions of this section are satisfied.
- B. All areas identified as unnumbered A zones on the Flood Insurance Rate Map (FIRM) or Flood Hazard Boundary Map (FHBM) are subject to inundation of the 100-year flood; however, the base flood elevation is not provided. Development within unnumbered A zones is subject to all provisions of these Regulations. If Flood Insurance Study data is not available, the community shall obtain, review, and reasonably utilize any base flood elevation or floodway data currently available from Federal, State, or other sources.
- C. All new construction, subdivision proposals, substantial-improvements, prefabricated buildings, placement of manufactured homes, and other developments shall require:
  - 1) Design or adequate anchorage to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
  - 2) Construction with materials resistant to flood damage;
  - 3) Utilization of methods and practices that minimize flood damages;
  - 4) All electrical, heating, ventilation, plumbing, air-conditioning equipment, and other service facilities be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
  - 5) New or replacement water supply systems and/or sanitary sewage systems be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and on-site waste disposal systems be located so as to avoid impairment or contamination; and

## ARTICLE 7 “FPO” FLOODPLAIN OVERLAY DISTRICT REGULATIONS

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- 6) Subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, located within special flood hazard areas are required to assure that:
  - a) All such proposals are consistent with the need to minimize flood damage;
  - b) All public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage;
  - c) Adequate drainage is provided so as to reduce exposure to flood hazards; and
  - d) All proposals for development, including proposals for manufactured home parks and subdivisions, of five (5) acres or fifty (50) lots, whichever is lesser, include within such proposals base flood elevation data.
- D. Storage, Material, and Equipment. The storage or processing of materials within the special flood hazard area that are in time of flooding buoyant, flammable, explosive, or could be injurious to human, animal, or plant life is prohibited. Storage of other material or equipment may be allowed if not subject to major damage by floods, if firmly anchored to prevent flotation, or if readily removable from the area within the time available after a flood warning.
- E. Nonconforming Use. A structure, or the use of a structure or premises that was lawful before the passage or amendment of these Regulations, but which is not in conformity with the provisions of these Regulations, may be continued subject to the following conditions:
  - 1) If such structure, use, or utility service is discontinued for six (6) consecutive months, any future use of the building shall conform to these Regulations.
  - 2) If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than fifty (50) percent of the pre-damaged market value of the structure. This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, building, safety codes, regulations or the cost of any alteration of a structure listed on the National Register of Historic Places, the State Inventory of Historic Places, or local inventory of historic places upon determination.

### 2. Specific Standards

- A. In all areas of special flood hazard, once base flood elevation data is obtained, as set forth in Section 7-105 herein, the following provisions are required:
  - 1) Residential Construction. New construction or substantial-improvement of any residential structure, including manufactured homes, shall have the lowest floor, including basement, elevated to a minimum of one (1) foot above base flood level. The elevation of the lowest floor shall be certified by a licensed land surveyor.
  - 2) Non Residential Construction. New construction or substantial improvement of any commercial, industrial, or other non residential structure, including manufactured homes, shall have the lowest floor, including basement, elevated a minimum of one (1)

## ARTICLE 7 “FPO” FLOODPLAIN OVERLAY DISTRICT REGULATIONS

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foot above the base flood level or, together with attendant utility and sanitary facilities, be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. The elevation of the lowest floor shall be certified by a licensed land surveyor.

For new construction and substantial-improvements, fully enclosed areas below lowest floor used solely for parking of vehicles, building access, or storage in an area other than a basement and that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:

- a) A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided; and
  - b) The bottom of all opening shall be no higher than one (1) foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- B. In all areas of special flood hazard, once floodway data is obtained, as set forth in Section 7-105, the following provisions are required:
- 1) The designated floodway shall be based on the standard that the area chosen for the floodway must be designed to carry the waters of the base flood, without increasing the water surface elevation more than one (1) foot at any point; and
  - 2) The community shall prohibit any encroachments, including fill, new construction, substantial-improvements, and other development within the designated regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.

### 3. Manufactured Homes.

- A. All manufactured homes to be placed within special flood hazard areas shall be required to be installed using methods and practices that minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.
- B. Require manufactured homes that are placed or substantially improved within unnumbered A zones on the community’s FIRM or FHBM on sites:

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- 1) Outside of a manufactured home park or subdivision;
  - 2) In a new manufactured home park or subdivision;
  - 3) In an expansion to an existing manufactured home park or subdivision; or
  - 4) In an existing manufactured home park or subdivision on which a manufactured home has incurred “substantial-damage” as the result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to a minimum of one (1) foot above the base flood level and be securely attached to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. The elevation of the lowest floor shall be certified by a licensed land surveyor.
- C. Require that manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within unnumbered A zones on the community’s FIRM or FHBM, that are not subject to the provisions of Section 7-105 of these Regulations, be elevated so that either:
- 1) The lowest floor of the manufactured home is a minimum of one (1) foot above the base flood level; or
  - 2) The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than thirty-six (36) inches in height above grade and be securely attached to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. The elevation of the lowest floor shall be certified by a licensed land surveyor.
4. Recreational Vehicles. Require that recreational vehicles placed on sites within unnumbered A zones on the community’s FIRM or FHBM either:
- A. Be on the site for fewer than 180 consecutive days, or
  - B. Be fully licensed and ready for highway use\*; or
  - C. Meet the permitting, elevating, and the anchoring requirements for manufactured homes of these Regulations.
- (\* A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices, and has no permanently attached additions.)

### **7-106 Floodplain Management Variance Procedures.**

1. Establishment of Appeal Board. The Osage County Board of Zoning Appeals shall hear and decide appeals and requests for variances from the floodplain management requirements of these Regulations.
2. Responsibility of Appeal Board. Where an application for a floodplain development permit is denied by the Floodplain Administrator, the applicant may apply for such floodplain development permit directly to the Appeal Board, as defined in Section 7-106.

The Appeal Board shall hear and decide appeals when it is alleged that there is an error in any

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requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of these Regulations.

3. Further Appeals. Any person aggrieved by the decision of the Appeal Board or any taxpayer may appeal such decision to the District Court of the County as provided in K.S.A. 12-759 and 12-760.
4. Floodplain Management Variance Criteria. In passing upon such applications for variances, the Appeal Board shall consider all technical data and evaluations, all relevant factors, standards specified in other sections of these Regulations, and the following criteria:
  - A. Danger to life and property due to flood damage;
  - B. Danger that materials may be swept onto other lands to the injury of others;
  - C. Susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
  - D. Importance of the services provided by the proposed facility to the community;
  - E. Necessity to the facility of a waterfront location, where applicable;
  - F. Availability of alternative locations, not subject to flood damage, for the proposed use;
  - G. Compatibility of the proposed use with existing and anticipated development;
  - H. Relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
  - I. Safety of access to the property in times of flood for ordinary and emergency vehicles;
  - J. Expected heights, velocity, duration, rate of rise and sediment transport of the flood waters, if applicable, expected at the site; and,
  - K. Costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems; streets; and bridges.
5. Conditions for Approving Floodplain Management Variances.
  - A. Generally, variances may be issued for new construction and substantial-improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items two (2) through six (6) below have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
  - B. Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places, the State Inventory of Historic Places, or local inventory of historic places upon determination, provided the proposed activity will not preclude the structure’s continued historic designation.
  - C. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

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- D. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- E. Variances shall only be issued upon:
  - 1) showing of good and sufficient cause,
  - 2) determination that failure to grant the variance would result in exceptional hardship to the applicant, and
  - 3) determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or regulations.
- F. A community shall notify the applicant in writing over the signature of a community official that:
  - 1) the issuance of a variance to construct a structure below base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage and
  - 2) such construction below the base flood level increases risks to life and property.

Such notification shall be maintained with the record of all variance actions as required by these Regulations.

### 7-107 Amendments

The regulations, restrictions, and boundaries set forth in these Regulations may from time to time be amended, supplemented, changed, or appealed to reflect any and all changes in the National Flood Disaster Protection Act of 1973. No such action may be taken until after a public hearing in relation thereto has been held as provided for amendments to these Regulations as outlined in Article 22 herein. These Regulations, as herein adopted, are in compliance with the National Flood Insurance Program regulations.

### 7-108 Penalties for Violation

Penalties shall be as established in Article 23 of these Regulations.

### 7-109 Definitions

Unless specifically defined below, or defined elsewhere in these Regulations, words or phrases used in this Article shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this Article its most reasonable application.

- 1. Accessory Structure: The same as “appurtenant structure.”
- 2. Actuarial or Risk Premium Rates: Those rates established by the Administrator pursuant to individual community studies and investigations which are undertaken to provide flood insurance in accordance with Section 1307 of the Act, and the accepted actuarial principles. “Risk premium rates” include provisions for operating costs and allowances.

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3. Administrator: The Federal Insurance Administrator.
4. Agency: The Federal Emergency Management Agency (FEMA).
5. Appeal: A request for a review of the Zoning Administrator’s interpretation of any provision of this Article or a request for a variance.
6. Appurtenant Structure: A structure that is on the same parcel of property as the principle structure to be insured and the use of which is incidental to the use of the principal structure.
7. Area of Special Flood Hazard: The land in the floodplain within a community subject to one percent or greater chance of flooding in any given year.
8. Base Flood: The flood having one percent chance of being equaled or exceeded in any given year.
9. Basement: Any area of the building having its floor subgrade (below ground level) on all sides.
10. Building: See “structure.”
11. Chief Engineer: The chief engineer of the division of water resources, Kansas Department Of Agriculture.
12. Chief Executive Officer or Chief Elected Official: The official of the community who is charged with the authority to implement and administer laws, rules, and regulations for that community.
13. Community: Any State or area or political subdivision thereof, which has authority to adopt and enforce floodplain management regulations for the areas within its jurisdiction.
14. Development: Any man made change to improved or unimproved real estate, including but limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage or equipment or materials.
15. Elevated Building: For insurance purposes, a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.
16. Eligible Community or Participating Community: A community for which the Administrator has authorized the sale of flood insurance under the National Flood Insurance Program (NFIP).
17. Existing Construction: For the purposes of determining rates, structures for which the “start construction” commenced before the effective date of the FIRM or before January 1, 1975, for FIRM’s effective before that date. “Existing construction” may also be referred to as “existing structures”.
18. Existing Manufactured Home Park or Subdivision: A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactures homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of these Regulations.



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19. Expansion to an Existing Manufactured Home Park or Subdivision: The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).
20. Flood or Flooding: A general and temporary condition of partial or complete inundation of normally dry land areas from:
  - A. the overflow of inland waters;
  - B. the unusual and rapid accumulation or runoff of surface waters from any source; and
  - C. the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood, or by some similarly unusual and unforeseeable event which results in flooding as defined above in item A.
21. Flood Elevation Determination: A determination of the water surface elevations of the 100-year flood; that is, the level of flooding that has a one percent chance of occurrence in any given year.
22. Flood Hazard Boundary Map (FHBM): An official map of a community, issued by the Administrator, where the boundaries of the flood areas having special flood hazards have been designated as (unnumbered or numbered) A zones.
23. Flood Hazard Map: The document adopted by the governing body showing the limits of:
  - A. the floodplain;
  - B. the floodway;
  - C. streets;
  - D. stream channel; and
  - E. other geographic features.
24. Flood Insurance Rate Maps (Firm): Official maps of the County on which the Flood Administrator has delineated the Flood Hazard Boundaries and the zones establishing insurance rates applicable to the County.
25. Flood Insurance Study (FIS): An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.
26. Flood Protection System: Those physical structural works constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to a “special flood hazard.” Such a system typically includes levees or dikes. These specialized modifying works are those constructed in conformance with sound federal engineering standards.
27. Floodplain or Flood-prone Area: Any land area susceptible to being inundated by water from any source (see “flooding”).



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28. Floodplain Management: The operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to, emergency preparedness plans, flood control works and floodplain management regulations.
29. Floodplain Management Regulations: Zoning regulations, subdivision regulations, building codes, health regulations, special purpose regulations (such as floodplain and grading regulations) and other applications of police power. The term describes such state or local regulations, in any combination thereof, that provide standards for the purpose of flood damage prevention and reduction.
30. Floodproofing: Any combination of structural and nonstructural additions, changes or adjustments to structures, including utility and sanitary facilities which would preclude the entry of water. Structural components shall have the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
31. Floodway or Regulatory Floodway: The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.
32. Freeboard: A factor of safety usually expressed in feet above a flood level for purposes of floodplain management. “Freeboard” tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, clogged bridge openings, and the hydrological effect of urbanization of the watershed.
33. Functionally Dependent Use: A use that cannot perform its intended purpose unless it is located or carried out in close proximity to water. This term includes only docking facilities and facilities that are necessary for the loading and unloading of cargo or passengers, but does not include long-term storage or related manufacturing facilities.
34. Highest Adjacent Grade: The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
35. Historic Structure: Any structure that is:
  - A. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
  - B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
  - C. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
  - D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been either:
    - 1) by an approved state program as determined by the Secretary of the Interior, or

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- 2) directly by the Secretary of the Interior in states without approved programs.
36. Lowest Floor: The lowest floor of the lowest enclosed area including basement. An unfinished or flood resistant enclosure, usable only for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building’s lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this Article.
37. Manufactured Home: A structure, transportable in one or more sections, that is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term “manufactured home” does not include a “recreational vehicle.”
38. Manufactured Home Park or Subdivision: A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
39. Map: The Flood Hazard Boundary Map (FHBM) or the Flood Insurance Rate Map (FIRM) for a community issued by the Federal Emergency Management Agency (FEMA).
40. Market Value or Fair Market Value: An estimate of what is fair, economic, just and equitable value under normal local market conditions.
41. Mean Sea Level: For purposes of the National Flood Insurance Program (NFIP), the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community’s Flood Insurance Rate Map (FIRM) are referenced.
42. New Construction: For the purposes of determining insurance rates, structures for which the “start of construction” commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, “new construction” means structures for which the “start of construction” commenced on or after the effective date of the floodplain management regulations adopted by a community and includes any subsequent improvements to such structures.
43. New Manufactured Home Park or Subdivision: A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either the final site grading or the pouring of concrete pads) is completed on or after the effective date of these Regulations.
44. NFIP: The National Flood Insurance Program (NFIP).
45. One Hundred (100) Year Flood: The base flood having a one (1) percent chance of annual occurrence.
46. Overlay District: A district which acts in conjunction with the underlying zoning district or districts. The original zoning district designation does not change.
47. Participating Community: Also known as an “eligible community,” means a community in which the Administrator has authorized the sale of flood insurance.

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- 48. Permit: A signed document from a designated community official authorizing development in a floodplain, including all necessary supporting documentation such as:
  - A. the site plan;
  - B. an elevation certificate; and
  - C. any other necessary or applicable approvals or authorizations from local, state or federal authorities.
- 49. Person: Includes any individual or group of individuals, corporation, partnership, association, or any other entity, including Federal, State, and local governments and agencies.
- 50. Principally Above Ground: A structure that at least 51 percent of the actual cash value of the structure, less land value, is above ground.
- 51. Recreational Vehicle: A vehicle which is:
  - A. built on a single chassis;
  - B. 400 square feet or less when measured at the largest horizontal projections;
  - C. designed to be self-propelled or permanently towable by a light- duty truck; and
  - D. designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.
- 52. Regulatory Flood Elevation: An elevation 1 foot higher than the water surface elevation of the regulatory flood.
- 53. Remedy A Violation: To bring the structure or other development into compliance with Federal, State, or local floodplain management regulations; or, if this is not possible, to reduce the impacts of its noncompliance.
- 54. Risk Premium Rates: Those rates established by the Administrator pursuant to individual community studies and investigations which are undertaken to provide flood insurance in accordance with Section 1307 of the National Flood Disaster Protection Act of 1973 and the accepted actuarial principles. “Risk premium rates” include provisions for operating costs and allowances.
- 55. Special Flood Hazard Area: See “area of special flood hazard.”
- 56. Special Hazard Area: An area having special flood hazards and shown on a FHBM as an unnumbered A zone.
- 57. Start of Construction: The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvements were within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slabs or footings, the installation of piles, the construction of columns, any work beyond the stage of excavation, or the

## ARTICLE 7 “FPO” FLOODPLAIN OVERLAY DISTRICT REGULATIONS

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placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, the installation of streets and/or walkways, excavation for a basement, footings, piers, foundations, the erection of temporary forms, nor installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial-improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building. includes substantial-improvements

58. State Coordinating Agency: The Division of Water Resources, Kansas Department of Agriculture, or other office designated by the governor of the state or by state statute at the request of the Administrator to assist in the implementation of the NFIP in the state of Kansas.
59. Structure: For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. For insurance purposes, a walled and roofed building, other than a gas or liquid storage tank, that is principally above ground and affixed to a permanent site, as well as a manufactured home on a permanent foundation. For the latter purpose, the term includes a building while in the course of construction, alteration or repair, but does not include building materials or supplies intended for use in such construction, alteration or repair, unless such materials or supplies are within an enclosed building on the premises.
60. Substantial Damage: Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.
61. Substantial Improvement: Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage”, regardless of the actual repair work performed. The term does not, however, include either:
  - A. any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or,
  - B. any alteration of a “historic structure”, provided that the alteration will not preclude the structure’s continued designation as a “historic structure”.

For the purposes of this definition, “substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

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

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63. Violation: The failure of a structure or other development to be fully compliant with the community’s floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required by these Regulations is presumed to be in violation until such time as that documentation is provided.
64. Water Surface Elevation: The height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum where specified) of floods of various magnitudes and frequencies in the floodplain.

## ARTICLE 8 “FRD” FLOODWATER RETARDING DAM BREACH IMPACT DISTRICT

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### SECTIONS:

#### 8-101 PURPOSE

#### 8-102 FINDINGS OF FACT

#### 8-103 GENERAL PROVISIONS

#### 8-104 ESTABLISHMENT OF ZONING DISTRICT

#### 8-105 PERMITTED USES

#### 8-106 PERMIT REQUIRED

### 8-101 PURPOSE

Certain areas of Osage County below Floodwater Retarding Dams (hereinafter referred to as FRD) would be subject to substantial flooding should a FRD breach occur. This could result in significant losses due to:

1. the cumulative effect of obstructions in the FRD breach impact area district causing increases in flood heights and velocities; and,
2. the occupancy of FRD breach impact area district by uses vulnerable to floods or hazardous to others which are inadequately elevated or otherwise protected from damage.

The FRD breach impact district is designed to permit the gainful use of certain lands which are considered to be in the path of potential flood waters and from which structures and other valuable property use that is subject to damage by flood water should be regulated. This would permit surface runoff through such areas in the event of a FRD breach with a minimum of structural damage or property loss, and a minimum of obligation upon governmental authorities for flood or disaster assistance.

As such, this Article is intended to promote the public health, safety, and general welfare and to minimize these losses by applying the provisions of this Article to the designated areas within Osage County. And by taking action to:

1. restrict or prohibit uses which are dangerous to health, safety, or property in the FRD breach impact area, or which might cause undue increase in flood heights; and,
2. protect individuals from buying lands for the purpose of building in the FRD breach impact area which is unsuited for intended purposes because of flood hazard.

### 8-102 FINDINGS OF FACT

1. The FRD breach impact area district of Osage County, Kansas, are subject to inundation which, in the event of a FRD breach, could result in potential loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood relief, and impairment of the tax base; all of which adversely affect the public health, safety and general welfare.
2. Such flood losses are caused by:
  - a. the cumulative effect of obstructions in FRD breach impact areas causing increases in flood heights and velocities.

## ARTICLE 8 “FRD” FLOODWATER RETARDING DAM BREACH IMPACT DISTRICT

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- b. the occupancy of FRD breach impact areas by uses vulnerable to floods or hazardous to others, and which are inadequately elevated or otherwise protected from flood damage.
3. This Article uses a reasonable method of analyzing FRD breach impact flood hazards which consists of a series of interrelated steps, as follows:
  - a. the use of engineering calculations and breach impact studies which indicate the area and potential depth of inundation for each FRD; and,
  - b. computation of floodway required to convey the breach flood waters without increasing flood heights more than one (1) foot at any point; and,
  - c. delineation of breach impact area encroachment lines within which no obstruction is permitted which would cause any increase in flood heights.

### 8-103 GENERAL PROVISIONS

1. Land to which Regulations Apply: This Article shall apply to all lands within the unincorporated portion of Osage County, Kansas, identified on the Floodwater Retarding Dam Maps as elaborated by the official Professional Retarding Dam Impact Studies. No development shall be permitted in any defined FRD breach impact area except as authorized herein.
2. The Enforcement Officer: The Zoning Administrator of Osage County, Kansas, is designated as the enforcement officer.
3. Rules for Interpretation of District Boundaries: The boundaries of the FRD breach impact area district shall be determined by scaling distances on the engineering Breach Impact Studies. The Enforcement Officer shall make all interpretations as to the exact location of said boundaries. In such cases where the interpretation is contested, the Board of Zoning Appeals will resolve the dispute.
4. Existing Development: No development or structures presently located within a known FRD breach impact area shall be relocated, extended, converted or structurally altered.
5. Abrogation and Greater Restrictions: It is not intended by this Article to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this Article imposes greater restrictions, the provisions of this Article shall prevail. All other regulations inconsistent with this Article are hereby repealed to the extent of the inconsistency only.
6. Interpretation: In their interpretation and application, the provisions of this Article shall be held to be minimum requirements and shall be liberally construed in favor of the Governing Body of Osage County, Kansas.
7. Warning and Disclaimer of Liability: The degree of flood protection required by this Article is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. In the event of a FRD breach, larger floods may occur on rare occasions or the flood height be increased by man-made or natural causes. This Article does not imply that areas outside boundaries of the FRD breach impact area or land uses permitted within such districts will be free from flooding or flood damages. This Article shall not create liability on the part of Osage County, Kansas, or any officer or employee thereof for any flood damages that may result from reliance on this Article or any administrative decision lawfully made thereunder.

## **ARTICLE 8 “FRD” FLOODWATER RETARDING DAM BREACH IMPACT DISTRICT**

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8. Appeal: Where a request for a permit to develop, build, locate, extend, convert or structurally alter any structure or building is denied by the Enforcement Officer, the applicant may appeal such decision and apply for relief to the Board of Zoning Appeals in the method provided in these Regulations for appeals.

### **8-104 ESTABLISHMENT OF ZONING DISTRICT**

The mapped FRD breach impact areas within the jurisdiction of this Article are hereby established as a Floodwater Retarding Dam Breach Impact Overlay District “FRD”, identified on the Floodwater Retarding Dam Maps and as elaborated by the official Professional Engineering Breach Impact Studies. Within this district all uses not meeting the standards of this Article and those standards of underlying zoning districts shall be prohibited.

### **8-105 PERMITTED USES**

Only uses having a low flood damage potential and not obstructing flood flows shall be permitted within the Floodwater Retarding Dam Breach Impact Overlay District, to the extent they are not prohibited by any other provision of these Regulations, and provided they do not require structures or storage of materials or equipment. Subject to the requirements of these Regulations, the following uses are permitted:

1. Agricultural uses.
2. Nonbuilding residential accessory uses such as lawns, gardens, parking, play and yard areas.
3. Nonresidential uses such as loading areas, parking and landing strips.
4. Public and private recreational uses such as golf courses, archery ranges, picnic grounds, parks, wildlife and nature preserves.

### **8-106 PERMIT REQUIRED**

No person, firm or corporation shall initiate any development or cause the same to be done without first obtaining a permit as required by these Regulations.



## ARTICLE 9 “AO” AIRPORT OVERLAY DISTRICT REGULATIONS

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### SECTIONS:

- 9-101 PURPOSE
- 9-102 DEFINITIONS
- 9-103 ESTABLISHMENT OF AIRPORT ZONES
- 9-104 AIRPORT ZONE HEIGHT LIMITATIONS
- 9-105 USE RESTRICTIONS
- 9-106 PLAN APPROVAL GUIDELINES
- 9-107 NONCONFORMING USES
- 9-108 PERMITS
- 9-109 ENFORCEMENT
- 9-110 CONFLICTING REGULATIONS

### 9-101 PURPOSE

The regulations set forth in this Article, or set forth elsewhere in these Regulations when referred to in this Article, are the regulations in the “AO” Airport Overlay District. The Airport Overlay District is designed to establish an airport zone surrounding Osage City Airport and to protect those using the airport from hazards that might be erected or constructed on surrounding properties. To this end, the District establishes additional restrictions on uses of property that may be more strict than those of the underlying district. When this occurs, the more strict requirements apply.

### 9-102 DEFINITIONS

As used in this Article, unless the context otherwise requires, the following words or phrases shall have the meanings herein defined:

1. AIRPORT: Osage City Airport.
2. AIRPORT ELEVATION: An elevation of 1,105 feet above mean sea level for Osage City Airport.
3. AIRPORT HAZARD: Any structure, tree, or use of land which obstructs the airspace required for the flight of aircraft in landing and taking off at any airport, or is otherwise hazardous to such landing or taking off of aircraft.
4. APPROACH SURFACE: A surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface and at the same slope as the approach zone height limitation slope set forth in Section 9-104 hereof. The perimeter of the approach surface coincides with the perimeter of the approach zone.
5. APPROACH, TRANSITIONAL, HORIZONTAL, AND CONICAL ZONES: The zones established in this Article.
6. CONICAL SURFACE: A surface extending outward and upward from the periphery of the horizontal surface at a slope of 9 to 1 for a horizontal distance of 4,000 feet.
7. HAZARD TO AIR NAVIGATION: An obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.

## ARTICLE 9 “AO” AIRPORT OVERLAY DISTRICT REGULATIONS

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8. HEIGHT: For the purpose of determining the height limits in all zones set forth in this Article and shown on the Airport Zoning Maps, the datum shall be mean sea level elevation unless otherwise specified.
9. HORIZONTAL SURFACE: A horizontal plane 150 feet above the established airport elevation, the perimeter of which coincides with the perimeter of the horizontal zone.
10. LARGER THAN UTILITY RUNWAY: A runway that is constructed for and intended to be used by propeller-driven aircraft of greater than 12,500 pounds maximum gross weight, and jet-powered aircraft.
11. NONCONFORMING USE: Any pre-existing structure, object of natural growth, or use of land which is inconsistent with the provisions of this Article, or any amendment thereto.
12. NONPRECISION INSTRUMENT RUNWAY: A runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area-type navigation equipment, for which a straight-in nonprecision instrument approach procedure has been approved or planned.
13. OBSTRUCTION: Any structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth in Section 9-104 hereof.
14. PERSON: Any individual, firm, copartnership, company, association, joint stock association, or government entity, and includes any trustee, receiver, assignee, or other similar representative thereof.
15. PRECISION INSTRUMENT RUNWAY: A runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS) or a Precision Approach Radar (PAR). It also means a runway for which a precision approach system is planned and is so indicated on an approved airport layout plan or any other planning document.
16. PRIMARY SURFACE: A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 90 feet beyond each end of that runway. The width of the primary surface is set forth in Section 9-103 hereof. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.
17. RUNWAY: A defined area on an airport prepared for landing and taking off of aircraft along its length.
18. STRUCTURE: Any object, including a mobile object, constructed or installed by man, including, but without limitation, buildings, towers, tanks, cranes, smokestacks, earth formation, and overhead transmission lines.
19. TRANSITIONAL SURFACES: These surfaces extend outward at 90 degree angles to the runway centerline and the runway centerline extended at a slope of 7 feet horizontally for each 1 foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces. Transitional surfaces for those portions of the precision approach

## ARTICLE 9 “AO” AIRPORT OVERLAY DISTRICT REGULATIONS

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surfaces, which project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured horizontally from the edge of the approach surface and at 90 degree angles to the extended runway centerline.

20. TREE: Any object of natural growth.
21. UTILITY RUNWAY: A runway that is constructed for and intended to be used by propeller-driven aircraft of 12,500 pounds maximum gross weight and less.
22. VISUAL RUNWAY: A runway intended solely for the operation of aircraft using visual approach procedures.

### 9-103 ESTABLISHMENT OF AIRPORT ZONES

In order to carry out the provisions of this section, there are hereby created and established certain zones which include all of the land lying beneath the approach surfaces, transitional surfaces, horizontal surfaces, and conical surfaces as they apply to Osage City Airport. Such zones are shown on the Osage City Airport Zoning Maps, which are hereby made a part of these Regulations. An area located in more than one of the following zones is considered to be only in the zone with the more restrictive height limitation. The various zones are hereby established and defined as follows:

1. Utility Runway Visual Approach Zone: The inner edge of this approach zone coincides with the width of the primary surface and is 250 feet wide. The approach zone expands outward uniformly to a width of 1,250 feet at a horizontal distance of 5,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway. (This zone applies to Runway 17-35 at Osage City Airport.)
2. Utility Runway Nonprecision Instrument Approach Zone: The inner edge of this approach zone coincides with the width of the primary surface and is 500 feet wide. The approach zone expands outward uniformly to a width of 2,000 feet at a horizontal distance of 5,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway. (This zone applies to Runway 17-35 at Osage City Airport.)
3. Runway Larger than Utility with a Visibility Minimum Greater than 3/4 Mile Nonprecision Instrument Approach Zone: The inner edge of this approach zone coincides with the width of the primary surface and is 500 feet wide. The approach zone expands outward uniformly to a width of 3,500 feet at a horizontal distance of 10,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway. (This zone does not presently apply to any runways at Osage City Airport.)
4. Transitional Zones: The transitional zones are the areas beneath the transitional surfaces.
5. Horizontal Zone: The horizontal zone is established by swinging arcs of 5,000 feet radii for all runways designated utility or visual, and 10,000 feet for all others, from the center of each end of the primary surface of each runway and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones.
6. Conical Zone: The conical zone is established as the area that commences at the periphery of the horizontal zone and extends outward therefrom a horizontal distance of 4,000 feet.

## ARTICLE 9 “AO” AIRPORT OVERLAY DISTRICT REGULATIONS

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### 9-104 AIRPORT ZONE HEIGHT LIMITATIONS

Except as otherwise provided in this Article, no structure shall be erected, altered, or maintained, and no tree shall be allowed to grow in any zone created by this Article to a height in excess of the applicable height herein established for such zone. Such applicable height limitations are hereby established for each of the zones in question as follows:

1. Utility Runway Visual Approach Zone: Slopes 9 feet outward for each 1 foot upward beginning at the end of, and at the same elevation as, the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.
2. Utility Runway Nonprecision Instrument Approach Zone: Slopes 9 feet outward for each 1 foot upward beginning at the end of, and at the same elevation as, the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.
3. Runway Larger than Utility with a Visibility Minimum Greater than 3/4 Mile Nonprecision Instrument Approach Zone: Slopes 34 feet outward for each 1 foot upward beginning at the end of, and at the same elevation as, the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline.
4. Transitional Zones: Slopes 7 feet outward for each 1 foot upward beginning at the sides of, and at the same elevation as, the primary surface and the approach surface, and extending to a height of 150 feet above the airport elevation. In addition to the foregoing, there are established height limits sloping 7 feet outward for each 1 foot upward beginning at the sides of, and the same elevation as, the approach surface and extending to where they intersect the conical surface or horizontal surface.
5. Horizontal Zone: Established at 150 feet above the airport elevation.
6. Conical Zone: Slopes 9 feet outward for each 1 foot upward beginning at the periphery of the horizontal zone and at 150 feet above the airport elevation, and extending to a height of 350 feet above the airport elevation.
7. Excepted Height Limitations: Except in the Approach Zones, nothing in this Article shall be construed as prohibiting the construction or maintenance of any structure, or growth of any tree, to a height up to 50 feet above the surface of the land.

### 9-105 USE RESTRICTIONS

Notwithstanding any other provisions of this Article, no use may be made of land or water within any zone established by this Article in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards, or otherwise in any way endanger or interfere with the landing, takeoff or maneuvering of aircraft intending to use the airport. No sanitary landfill may be established, operated, or maintained within 2 miles of any airport boundary.

## ARTICLE 9 “AO” AIRPORT OVERLAY DISTRICT REGULATIONS

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### 9-106 PLAN APPROVAL GUIDELINES

The Plan Approval Guidelines, including site plan submission and content requirements, are contained in Article 10 of these Regulations.

### 9-107 NONCONFORMING USES

1. Regulations Not Retroactive: The regulations prescribed in this Article shall not be construed to require the removal, lowering, or other change or alteration of any structure or tree not conforming to the regulations at the effective date of these Regulations, or otherwise interfere with the continuation of a nonconforming use. Nothing contained herein shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of these Regulations and is diligently pursued.
2. Marking and Lighting: Notwithstanding the preceding provision of this Article, the owner of any existing nonconforming structure or tree is hereby required to permit the installation, operation, and maintenance thereon of such markers and lights as shall be deemed necessary by the Zoning Administrator to indicate the presence of such airport obstruction. Such markers and lights shall be installed, operated, and maintained at the expense of the airport owner.

### 9-108 PERMITS

1. Future Uses: Except as specifically provided in a., b., and c. hereunder, no material change shall be made in the use of land, no structure shall be erected or otherwise established, and no tree shall be planted in any zone herein created unless a permit therefor shall have been applied for and granted. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, structure, or tree would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted. No permit for a use inconsistent with the provisions of this Article shall be granted unless a variance has been approved in accordance with Section 9-107 (4.) hereof.

Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, or alteration of any structure, or growth of any tree in excess of any of the height limits established by this Article, except as set forth in Section 9-104 (4.).

- a. In the area lying within the limits of the horizontal zone and the conical zone, no permit shall be required for any tree or structure less than 75 feet of vertical height above the ground; except when, because of terrain, land contour, or topographical features, such tree or structure would extend above the height limits prescribed for such zones.
- b. In areas lying within the limits of the approach zones but a horizontal distance of not less than 4,90 feet from each end of the runway, no permit shall be required for any tree or structure less than 75 feet height above the ground; except when such tree or structure would extend above the height limit prescribed for such approach zone.
- c. In the areas lying within the limits of the transition zones beyond the perimeter of the horizontal zone, no permit shall be required for any tree or structure less than 75 feet of vertical height above the ground; except when such tree or structure, because of terrain, land contour, or topographic features, would extend above the height limit prescribed for such transition zones.

## ARTICLE 9 “AO” AIRPORT OVERLAY DISTRICT REGULATIONS

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2. Existing Uses: No permit shall be granted that would allow the establishment or creation of an obstruction or permit a nonconforming use, structure, or tree to become a greater hazard to air navigation than it was on the effective date of these Regulations or any amendments thereto, or than it is when the application for a permit is made. Except as indicated, all applications for such a permit shall be granted.
3. Nonconforming Uses Abandoned or Destroyed: Whenever the Zoning Administrator determines that a nonconforming tree or structure has been abandoned or more than 50 percent torn down, physically deteriorated, or decayed, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from the Zoning Regulations.
4. Variances: Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use property not in accordance with the regulations prescribed in this Article, may apply to the Board of Zoning Appeals for a variance from such regulations. Each application for variance shall be accompanied by a determination from the Federal Aviation Administration as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace. Such variances shall be allowed where it is duly found that a literal application or enforcement of the regulations will result in unnecessary hardship, and relief granted will not be contrary to the public interest, will not create a hazard to air navigation, will do substantial justice, and will be in accordance with the spirit of this Article. Additionally, no application for variance to the requirements of this Article may be considered by the Board of Zoning Appeals unless a copy of the application has been furnished to the airport owner for advice as to the aeronautical effects of the variance. If the airport owner does not respond to the application within 30 days after receipt, the Board of Zoning Appeals may act on its own to grant or deny said application.
5. Obstruction Marking and Lighting: Any permit or variance granted may, if such action is deemed advisable to effectuate the purpose of this Article and be reasonable in circumstances, be so conditioned as to require the owner of the structure or tree in question to install, operate, and maintain, at the owner’s expense, such markings and lights as may be necessary. If deemed proper by the Board of Zoning Appeals and approved by the Governing Body, this condition may be modified to require the owner to permit the Airport owner, at its own expense, to install, operate, and maintain the necessary markings and lights.

### 9-109 ENFORCEMENT

It shall be the duty of the Zoning Administrator to administer and enforce the regulations prescribed in this Article. Applications for permits and variances shall be made to the Zoning Administrator upon a form published for that purpose. Applications required by this Article to be submitted to the Zoning Administrator shall be promptly considered and granted or denied. Application for action by the Board of Zoning Appeals shall be forthwith transmitted by the Zoning Administrator.

### 9-110 CONFLICTING REGULATIONS

Where there exists a conflict between any of the regulations or limitations prescribed in this Article and any other regulations applicable to the same area, whether the conflict be with respect to the height of structures or trees, the use of land, or any other matter, the more stringent limitation or requirement shall govern and prevail.



## **ARTICLE 10 PLAN APPROVAL GUIDELINES**

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### **SECTIONS:**

#### **10-101 PURPOSE**

#### **10-102 APPLICATION, REVIEW, APPROVAL PROCEDURE**

#### **10-103 DEVELOPMENT PLAN**

#### **10-104 DEVELOPMENT PLAN – PLANNING COMMISSION REVIEW**

#### **10-105 DEVELOPMENT PLAN - PHASING, TIME RESTRICTIONS**

#### **10-106 APPEALS OF PLANNING COMMISSION ACTION ON DEVELOPMENT PLAN**

#### **10-107 REMEDIES FOR NONCOMPLIANCE**

#### **10-101 PURPOSE**

The procedures and requirements set forth in this Article, or the requirements set forth elsewhere in these Regulations when referred to in this Article, are for the development plans required for Conditional Use Permits designated elsewhere in these Regulations. These requirements are specifically intended to accommodate the consideration of an application for a Conditional Use under the provisions of these Regulations.

The requirements and regulations herein prescribed pertaining to height, open space, setbacks, parking, loading, and signs may be adjusted or modified so that the property in question may be developed in a reasonable manner and, at the same time, will not be detrimental to the public welfare and the interests of the community, but in keeping with the general intent and spirit of these Regulations. Such adjustments or modifications may be made as a part of the rezoning or Conditional Use process, or may be allowed after approval by the Osage County Planning Commission upon request of the applicant.

#### **10-102 APPLICATION, REVIEW, APPROVAL PROCEDURE**

In order to assure that proposed Conditional Use permits meet the requirements of these Regulations and will be compatible with surrounding properties and uses, it is hereby required that all applications for a Conditional Use permit include a development plan which must be approved as specified within this Article prior to any construction on the property.

The procedure for approval of a development plan shall consist of the following:

1. Application for a Conditional Use permit; and,
2. Submission of a development plan.

The development plan shall be submitted at the time the application is submitted and no application shall be deemed complete nor set for public hearing until said development plan is submitted. No building permit shall be issued for property requiring a Conditional Use Permit until the Conditional Use has been approved and the development plan for the entire property and/or each phase of development has been approved in accordance with the provisions of these Regulations. Properties classified as requiring a Conditional Use at the time of the initial adoption of these Regulations may change uses or construct additions to existing buildings without the necessity of obtaining development plan approval if the Zoning Administrator deems such improvements are within the spirit and intent of these Regulations. Any construction for the first time on properties classified as requiring a Conditional Use must have a development plan approved as provided herein prior to any building permit being issued.

## ARTICLE 10 PLAN APPROVAL GUIDELINES

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### 10-103 DEVELOPMENT PLAN

Application for a Conditional Use and development plan approval shall be made in accordance with the procedures outlined in Article 17 of these Regulations. The application shall include a development plan that describes the applicant's intentions for the use and development of the property. The development plan shall include and/or display the following information:

1. A topographic survey indicating the legal description, property boundary, existing contours, existing utilities and easements, and natural and manmade features of the property.
2. A development plan, drawn to the same scale as the topographic survey, indicating:
  - a. existing contours (shown as dashed lines).
  - b. proposed contours (shown as solid lines)
  - c. location and orientation of all existing and proposed buildings.
  - d. areas to be used for parking, including the number and arrangement of stalls.
  - e. areas to be developed for screening, including the location of plant materials, and screening structures and features.
  - f. pedestrian and vehicular circulation, and their relationship to existing streets, alleys and public right-of-way.
  - g. points of ingress and egress
  - h. location of all existing and proposed utilities (sanitary sewage systems, water systems, storm drainage systems, gas lines, telephone lines and electrical power lines).
  - i. drainage controls (retention or detention ponds).
  - j. location, size and characteristics of identification and business signs.
  - k. lighting layout, appurtenances, and intensity of illumination.
  - l. proposed finished floor elevations of all buildings and structures.
3. A statement of intent shall accompany the preliminary development plan to explain the measures used to achieve compatibility of the proposed development with surrounding properties through the planning of the site and the location and design of structures.

### 10-104 DEVELOPMENT PLAN – PLANNING COMMISSION REVIEW

The Planning Commission shall review the application along with the development plan and shall approve or deny the development plan, or may request modifications to the development plan as deemed necessary to carry out the spirit and intent of these Regulations. Approval by the Osage County Planning Commission shall constitute approval and permanency of the development plan, thereby establishing the criteria for construction of the proposed development.



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In the process of reviewing any development plan, the Osage County Planning Commission may provide approval of the development plan conditioned upon certain limitations or restrictions deemed necessary to protect the public interest and surrounding properties, including, if any, the following:

1. Limitations on the type, illumination and appearance of any signs or advertising structures.
2. Direction and location of outdoor lighting.
3. Arrangement and location of off-street parking and off-street loading spaces.
4. The type of paving, landscaping, fencing, screening and other such features.
5. Limitations on structural alterations to existing buildings.
6. Plans for control or elimination of smoke, dust, gas, noise or vibration caused by the proposed use.
7. Waiver of any standards, requirements or depiction of information required by this Article when requested by the applicant and shown to be unnecessary as applied to the specific case in question.
8. Such other conditions and/or limitations that are deemed necessary.

#### **10-105 DEVELOPMENT PLAN - PHASING, TIME RESTRICTIONS**

The applicant may proceed with construction based on the entire development plan, or may elect to develop the property in phases. The applicant may submit the development plan separately for the first and each successive phase of construction, or for all of the project with a depiction of the phasing sequence; however, all Conditional Uses approved with a development plan shall have construction begun with one (1) year of said approval by the Osage County Planning Commission. The applicant may request a one (1) year extension of this time restriction by submitting a request in writing to the Osage County Planning Commission stating the reasons construction has not begun and at what time construction is expected to begin. If the Osage County Planning Commission agrees, the one (1) year extension may be granted one time but shall not be granted for any longer period.

The Osage County Planning Commission shall review the development plan and shall act on said plan in a reasonable time period. Upon approval by the Osage County Planning Commission, the development plan shall be filed for record in the office of the Zoning Administrator.

After the development plan has been approved, and when in the course of carrying out the development plan, minor adjustments are requested by the applicant and such adjustments conform to the minimum standards established by the approved development plan for building coverage, parking spaces, points of ingress and/or egress, heights, setbacks and/or other requirements, such adjustments may be made by the Zoning Administrator. If the requested adjustments are deemed by the Zoning Administrator to exceed the minimum standards established by the approved development plan, the revised development plan must be submitted and approved by the Osage County Planning Commission before any further work can proceed. Said revised development plan shall not require another public hearing unless the Osage County Planning Commission determines that the revisions requested are so significant that the public interest will be protected only by conducting a public hearing on said revised development plan. Regardless of whether a public hearing is required or not, at no time shall the Conditional Use previously approved be subject to disapproval. The only issue in said review shall be the requested revisions to the previously approved development plan.

## **ARTICLE 10 PLAN APPROVAL GUIDELINES**

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### **10-106 APPEALS OF PLANNING COMMISSION ACTION ON DEVELOPMENT PLAN**

Any decision of the Osage County Planning Commission regarding development plans may be appealed to the Governing Body, whose decision shall be final. An appeal shall be filed in writing with the Zoning Administrator not later than fifteen (15) days following the date of the Osage County Planning Commission's final action. If no appeal is taken within that time, the decision of the Osage County Planning Commission shall be final. The appeal shall set forth the basis for the appeal and the relief sought by the applicant. The Zoning Administrator shall schedule the appeal before the Governing Body no later than thirty (30) days following the filing of the appeal. The Zoning Administrator shall notify all interested persons in writing of the time and place of the Governing Body's meeting at least ten (10) days prior to said meeting.

### **10-107 REMEDIES FOR NONCOMPLIANCE**

If the applicant fails to comply with the time requirements herein established, the approved development plan shall be declared null and void and no permit for construction shall be issued until a new development plan has been approved following the procedures previously cited. The Conditional Use permit shall remain in effect but shall do so without an approved development plan. If the approved development plan is voided, the Osage County Planning Commission or the Governing Body may initiate an action to have the Conditional Use permit revoked by following the procedures outlined in these Regulations.

## ARTICLE 11 PERFORMANCE STANDARDS

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### SECTIONS:

#### 11-101 PURPOSE

#### 11-102 PERFORMANCE STANDARDS - DISTRICTS “AG”, “SR”, “R-1” AND “V-1”

#### 11-103 PERFORMANCE STANDARDS - CONDITIONAL USES

#### 11-101 PURPOSE

The regulations set forth in this Article, or set forth elsewhere in these Regulations when referred to in this Article, are the performance standards for uses permitted within these Regulations. The standards established herein are intended to provide guidance in the development or redevelopment of property in the area subject to these Regulations for the purpose of encouraging and requiring orderly development at a quality level generally equal to or exceeding that commonly found elsewhere in the community. The standards stated within this Article are the minimum required or maximum permitted, whichever the case may be, for the uses permitted in these Regulations.

#### 11-102 PERFORMANCE STANDARDS - DISTRICTS “AG”, “SR”, “R-1” AND “V-1”

The following are the performance standards for the “AG” Agricultural District, “SR” Suburban Residential District, “R-1” Single-Family Residential District, and the “V-1” Village District.

1. Where allowed by these Regulations (by right in the “AG” Agricultural District and by accessory use in other districts), agricultural uses are permitted with no restrictions as to operation of such vehicles or machinery as are customarily incidental to such uses, and with no restrictions to the sale or marketing of products raised on the premises. However, there shall be no disposal of garbage, rubbish or offal, other than regular removal, except in compliance with the Osage County Sanitary Code.
2. No main or accessory building or structure shall project beyond the property line. On all major streets and highways within Osage County, no main or accessory building or structure shall project beyond the setback lines established within these Regulations. Nothing shall be allowed to be placed in any public right-of-way without the express permission of the County.
3. Residential real estate sales offices in the “SR” Suburban Residential, “R-1” Single-Family Residential, and “V-1” Village Districts are subject to the following standards:
  - A. There shall be only one residential sales office in any one subdivision.
  - B. All sales shall be limited to the sale of new properties located within that subdivision.
  - C. Any sales office within a subdivision shall be located within a permanent residential structure. Mobile homes, and construction trailers shall not be permitted to be used as a residential real estate sales office.
  - D. No additional parking facilities other than adjacent on-street parking or customary driveway parking shall be permitted.

## ARTICLE 11 PERFORMANCE STANDARDS

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- E. Upon issuance of any final approval of construction for 90% of the lots within the subdivision, the sales office shall be terminated.
- 4. In order for residential-design manufactured homes to have substantially the appearance of an on-site, conventionally built, single-family dwelling, the following criteria and standards shall apply:
  - A. The pitch of the roof of the manufactured home has a minimum vertical rise of 2.2 inches for each 12 inches of vertical run, and the roof is finished with a type of shingle that is commonly used in standard residential construction.
  - B. All roof structures shall provide an eave projection of no less than one (1) foot, which may include a gutter.
  - C. The exterior siding consists predominantly of vinyl or metal horizontal lap siding (whose reflectivity does not exceed that of gloss white paint), wood, or hardboard, comparable in composition, appearance and durability to the exterior siding commonly used in residential construction.
  - D. The manufactured home is 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, 1994” (NCS BCS A115.1), and a continuous, permanent masonry foundation or masonry curtain wall, unpierced except for required ventilation and access which may include walk-out basements and garages, is installed under the perimeter of the manufactured home.
  - E. Stairs, porches, entrance platforms, ramps and other means of entrance and exit to and from the manufactured home shall be installed or constructed firmly to the primary structure and anchored securely to the ground.
  - F. The moving hitch, wheels and axles, and transporting lights shall be removed.
- 5. Non-Traditional Structures used as Residences. Where permitted, all non-traditional structures intended to be used as a residence for any reason when installed on individual lots, to be substantially compatible with the appearance of an on-site, conventionally built, single-family dwelling, the following aesthetic criteria and siting standards shall apply:
  - A. Any person intending to place a non-traditional structure on an individual lot within Osage County for the purpose of creating a residence is expected to meet the setback requirements of the Zoning Regulations to the same extent as for a site-built home.
  - B. Every property owner seeking a Conditional Use Permit to allow a non-traditional structure used as a residence shall submit a detailed floor plan of the proposed structure and its relationship to the lot property lines. The floor plan shall also include the type of roof covering and siding to be used on the proposed structure.
  - C. Each non-traditional structure shall be placed on a permanent foundation constructed in compliance with the adopted Codes of the County, and subject to the performance standard in Article 11-102.4.D.

## ARTICLE 11 PERFORMANCE STANDARDS

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- D. Each non-traditional structure shall be required to obtain a wastewater system permit in compliance with the adopted Codes of the County.
- E. For purposes of this standard, the following definitions apply:
  - 1) A “non-traditional structure” shall mean cargo containers, railroad cars, truck vans, converted mobile homes, trailers, recreational vehicles, bus bodies, vehicles, grain bins, and similar prefabricated items and structures originally built for purposes other than as a residence. For the purposes of this section, all residential structures under 750 square feet in size shall be considered a non-traditional structure as well.
  - 2) “Cargo containers” include standardized reusable vessels that were:
    - a) Originally designed for or used in the packing, shipping, movement or transportation of freight, articles, goods or commodities; and/or,
    - b) Originally designed for or capable of being mounted or moved by rail, truck or ship by means of being mounted on a chassis or similar transport device. This definition includes the terms “transport containers” and “portable site storage containers” having a similar appearance to and similar characteristics of cargo containers.

### 11-103 PERFORMANCE STANDARDS - CONDITIONAL USES

The following are the performance standards for Conditional Uses authorized by these Regulations.

- 1. No smoke, radiation, vibration or concussion, or heat shall be produced that is perceptible outside a building, and no dust, fly ash, or gas that is toxic, caustic or obviously injurious to humans or property shall be produced.
- 2. Any manufacturing or assembly of products shall be entirely within a totally enclosed building.
- 3. No emission of air contaminants from any source within the boundaries of any lot or tract shall exceed emission rates established by the Kansas Secretary of Health and Environment pursuant to K.S.A. 65-3001 et seq., or amendments thereto, and any administrative regulations adopted thereunder.
- 4. No activity shall be permitted that creates any off-site electrical disturbance.
- 5. Light sources shall be controlled or hooded so that light is directed away from any adjoining residentially zoned property or public streets.

ARTICLE 12 PARKING REGULATIONS

SECTIONS:

- 12-101 PARKING REQUIREMENTS
- 12-102 INTERPRETATION OF THE CHART
- 12-103 JOINT USE AND OFF-SITE FACILITIES
- 12-104 DESIGN STANDARDS
- 12-105 PERFORMANCE STANDARDS

12-101 PARKING REQUIREMENTS

When any building or structure is hereafter erected or structurally altered to the extent of increasing the floor area by 50 percent or more, or a building or use is changed or enlarged in floor area, number of employees, number of dwelling units, seating capacity or otherwise, to create a need for an increase of 10 percent or more in the number of existing parking spaces, or any building or structure hereafter erected is converted for the uses listed in Column 1 of the chart below in any zoning district, accessory off-street parking spaces shall be provided as required in Column 2 or Column 3 or as required in subsequent sections of this Article or these Regulations.

Column 1 USE OR USE CATEGORY	Column 2 SPACES REQUIRED PER BASIC MEASURING UNIT	Column 3 ADDITIONAL REQUIREMENTS
One family and two-family dwellings	2 per dwelling unit	
Apartments	2 per dwelling unit or 1.5 per efficiency unit	
Church, temple or similar place of assembly	1 per 5 seats or bench seat spaces (Seats in main auditorium only)	
College or high school	1 per 5 seats in main auditorium or 8 per classroom whichever is greater	
Elementary or nursery school	1 per 10 seats main assembly room or 1 per classroom	

## ARTICLE 12 PARKING REGULATIONS

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	whichever is greater	
Country club or golf club	To be determined by the Planning Commission and Governing Body	
Public library, museum art gallery, or community center	5 per building	Plus 1 additional for each 300 sq. ft. of floor area in excess of 1,000 square feet
Private clubs, group home, fraternities, sororities	2 per 3 beds or 1 per active member, whichever is greater	
Sanitarium nursing or convalescent home, home for the aged or similar institution	1 per 5 patient beds	
Hotel	1 per guest room or suite	1 per 2 employees or staff members per shift
Tourist court motel motor hotel or motor lodge	1 per sleeping room or suite	1 per 2 employees staff members per shift
Rooming, boarding, lodging house or group home	2 per 3 beds	
Hospital	1 per 3 patient beds or staff members	1 per 2 employees per shift
Office or office building, studio or clinic	1 per 300 square feet of floor area	3 spaces minimum

## ARTICLE 12 PARKING REGULATIONS

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Funeral home	1 per 5 seats in auditorium or chapel	
Restaurant, tavern, drinking establishment, or other establishment for consumption of food or beverage on the premises	1 per 3 seats or seating spaces	
Retail store or personal service establishment and banks floor area	1 per 300 square feet of floor area	Retail food stores over 4,000 sq. ft., 1 per 150 sq. ft. of
Furniture or appliance store, machinery, equipment, and auto and boat sales and service	1 per 300 square feet of floor area	2 spaces minimum Auto sales & service 10 minimum
Auditorium theatre - gymnasium stadium - arena or convention hall	1 per 4 seats or seating spaces	
Bowling alley	5 per 1,000 sq. ft. of gross floor area	
Food storage locker	1 per 200 sq. ft. customer service area	
Amusement place dance hall skating rink - swimming pool - auditorium or exhibition hall without fixed seats	1 per 100 sq. ft. of floor area	Does not apply to accessory uses



**ARTICLE 12 PARKING REGULATIONS**

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General service or repair establishment printing - publishing plumbing, heating	1 per 300 sq. ft. of floor area
Manufacturing or industrial establishment, research or testing lab, wholesale warehouse or similar establishment	2 per 1,000 square feet of floor area

**12-102 INTERPRETATION OF THE CHART:**

1. The use regulations for each District are not affected by arrangement of uses in the chart.
2. The parking requirements in this Article do not limit other requirements in these Regulations for parking contained in the district regulations.
3. The parking requirements in this Article do not limit special requirements which may be imposed in connection with Conditional Uses, Article 17.
4. Floor area, as used in the chart, shall be as defined in Article 1, Definitions.
5. Where fractional spaces result, the parking spaces required shall be construed to be the next highest whole number.
6. The parking spaces required for a use not specifically listed in the chart shall be the same as for a listed use of similar characteristics with similar demands for parking as determined by the Zoning Administrator.
7. In the case of mixed uses (uses with different parking requirements occupying the same building or premises) or in the case of joint use of a building or premises by more than one use having the same parking requirements, the parking spaces required shall equal the sum of the requirements of the various uses computed separately.

**12-103 JOINT USE AND OFF-SITE FACILITIES**

All parking spaces required herein shall be located on the same lot with the building or use served, except that where an increase in the number of spaces is required by a change or enlargement of use or where such spaces are provided collectively or used jointly by two or more buildings or establishments, the required spaces may be located and maintained not to exceed 300 feet from the building served.

1. Up to 50 percent of the parking spaces required for (a) theaters, night clubs or cafes, and up to 100 percent of the parking spaces required for a church auditorium may be provided and used jointly by (b) banks, offices, retail stores, repair shops, service establishments and similar uses not normally open, used or operated during the same hours as those listed in (a); provided, however, that a written agreement is properly executed and filed as specified below.

## ARTICLE 12 PARKING REGULATIONS

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2. In any case where the required parking spaces are not located on the same lot with the building or use served, or where such spaces are collectively or jointly provided and used, a written agreement thereby assuring their retention for such purposes shall be properly drawn and executed by the parties concerned, approved as to form by the County Attorney and shall be filed with the Zoning Administrator.

### **12-104 DESIGN STANDARDS:**

1. An off-street parking space is an area not in a street or alley, being a minimum of 9 feet by 19 feet, exclusive of driveways or access drives, permanently reserved for the temporary storage of one motor vehicle and connected with a street or alley by an all-weather surfaced driveway which affords satisfactory ingress and egress for motor vehicles.
2. Entrances or exits for all parking facilities shall comply with the requirements of the County Engineer.
3. Screening shall be erected along any property line adjacent to or adjoining any single-family residence, two-family residence or multi-family residence to eliminate the passage of light from vehicles. Screening along side yards shall not extend nearer to the street than the front yard setback line.

### **12-105 PERFORMANCE STANDARDS:**

1. All off-street parking spaces, and their access drives required for all commercial and industrial uses shall be paved with an asphalt or concrete surface and shall be maintained in good condition and free of all weeds, dust, trash and other debris. Said paving shall be completed before the activity or use can commence. The Osage County Planning Commission may waive the paving requirement at the applicant's request, provided that the applicant can provide sufficient reasons and can show that such action would be in the community's best interest and would be keeping with the spirit and intent of these Regulations.
2. All off-street parking spaces, and their access drives, shall be planned and engineered to assure proper drainage of surface water. If a public storm sewer is available, drainage from such lot or parcel of land shall be conveyed to such sewer in a manner approved by the County. If a storm sewer is not available, positive drainage shall be provided for on such lot or parcel and discharge the same through defined drainage courses. No drainage shall be directed over adjoining lands unless approved by the County Engineer.
3. The Osage County Planning Commission or the Governing Body may require plans to be prepared and presented to assure proper design and construction of any off-street parking spaces and their access drives, if conditions of the site are such that compliance with these requirements may be difficult or may pose a potential problem with adjacent properties, or if the proposed use will include parking needs for buses, tractor-trailer semis, or other such large vehicles. Additional spaces may be required or reserved to accommodate such vehicles and the Osage County Planning Commission or Governing Body may require that the site plan show the location of such spaces.
4. When located in a residential district, parking shall not be permitted within a front yard setback.

## ARTICLE 12 PARKING REGULATIONS

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5. If lighting facilities are provided, they shall be so arranged as to deflect or direct light away from any adjacent single-family residence, two-family residence or multi-family residence.
6. Parking areas shall have adequate guards to prevent the extension or the overhanging of vehicles beyond property lines or parking spaces; and parking areas shall be adequately marked with at least two (2) inch wide stripes of traffic paint, for channelization and movement of vehicles.
7. No business shall be conducted on any parking lot except when conducted in compliance with these Regulations.

ARTICLE 13 OFF-STREET LOADING REGULATIONS

SECTIONS:

- 13-101 REQUIREMENTS
- 13-102 INTERPRETATION OF THE CHART
- 13-103 MIXED USES OF ONE BUILDING
- 13-104 DESIGN STANDARDS

13-101 REQUIREMENTS

Except as otherwise provided in these Regulations, when any building or structure is hereafter erected or structurally altered to the extent of increasing floor area by 50 percent or more, or any building is hereafter converted for the uses listed in Column 1 of the chart below, when such buildings contain the floor areas specified in Column 2, accessory off-street loading spaces shall be provided as required in Column 3, or as required in subsequent sections of this Article.

Column 1 Use or Use Category in Square Feet	Column 2 Floor Area as Defined in Article 1	Column 3 Loading Spaces Required
Retail Store, Department	2,000 10,000	One
Store, Restaurant,	10,000 20,000	Two
Wholesale House, Warehouse	20,000 40,000	Three
Repair, General Service	40,000 60,000	Four
Manufacturing or Industrial Establishment	Each 50,000 over 60,000	One Additional
Apartment Building, Motel,	5,000 10,000	One
Offices or Office Building	10,000 100,000	Two
Hospital or Similar	100,000 200,000	Three
Institution, Places of Public Assembly	Each 100,000 over 200,000	One Additional
Funeral Home or Mortuary	2,500 4,000	One
	4,000 6,000	Two
	Each 10,000 over 6,000 whichever is greater	One Additional

## **ARTICLE 13 OFF-STREET LOADING REGULATIONS**

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### **13-102 INTERPRETATION OF THE CHART**

The loading space requirements apply to all Districts.

The loading space requirements in this Article do not limit special requirements that may be imposed in connection with Conditional Uses, Article 17.

### **13-103 MIXED USE OF ONE BUILDING**

Where a building is used for more than one use or for different uses and where the floor area used for each use for which loading space is required is below the minimum for required loading spaces, but the aggregate floor area used is greater than such minimum, then off-street loading space shall be provided as if the entire building were used for that use in the building for which the most spaces are required.

### **13-104 DESIGN STANDARDS**

1. Loading spaces shall have minimum dimensions of 12 feet by 35 feet and vertical clearance of at least 14 feet.
2. Loading spaces for a funeral home or mortuary may be reduced in size to 10 feet by 25 feet and vertical clearance reduced to 8 feet.

## ARTICLE 14 DISTRICT SIGN REGULATIONS

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### SECTIONS:

#### 14-101 SCOPE, OBJECTIVES

#### 14-102 DEFINITIONS

#### 14-103 GENERAL SIGN REQUIREMENTS

#### 14-104 PROCEDURAL REQUIREMENTS

#### 14-105 DESIGN AND CONSTRUCTION STANDARDS

#### 14-106 DISTRICT REGULATIONS

#### 14-107 NONCONFORMING SIGNS

#### 14-101 SCOPE, OBJECTIVES

The provisions of this Article shall govern the placement, use and structural quality of privately owned outdoor signs and other advertising and identification devices together with their appurtenant and auxiliary apparatus. After the effective date of these Regulations, no sign shall be erected, constructed, reconstructed or otherwise altered without first obtaining a separate sign permit. Such sign permit shall be legally issued only when in compliance with the regulations set forth in this Article. The Sign Regulations are found to be necessary and proper to the following objectives:

1. To protect the general public from damage and injury which may be caused by the faulty and unregulated construction of signs.
2. To prevent the obstruction of traffic visibility and confusion with traffic control devices resulting from improperly placed and designed signs.
3. To ensure the visual quality of signs and preserve and promote aesthetic quality in the unincorporated portion of Osage County, Kansas.

#### 14-102 DEFINITIONS

For the purpose of this Article, certain terms, phrases and words used throughout this Article shall have the meaning assigned them in this section:

##### 1. GENERAL

- A. **ABANDONED SIGN:** Any sign, including off-site signs unless owned and operated by a bona fide billboard company, which no longer directs a potential customer to or exhorts any person, or advertises a bona fide business, project, product, service or activity.
- B. **FACADE:** The entire exterior surface of a particular side of a structure or establishment to be considered in the calculation of the maximum gross surface area of a wall, roof or projecting sign or signs.
- C. **INDIRECTLY ILLUMINATED SIGN:** Any sign which is partially or completely illuminated at any time by a light source separate from the sign housing which is so shielded as to not be visible at eye level.
- D. **MARQUEE:** A permanent roofed structure attached to and supported by the building and projecting over public property.

## ARTICLE 14 DISTRICT SIGN REGULATIONS

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- E. OFF-PREMISES SIGN: A sign delivering a message or advertisement other than the name, occupation or nature of the activities conducted on the premises or the products sold or manufactured thereon, and shall include all billboard signs and political signs with a gross surface area of more than thirty-two (32) square feet.
- F. ON-PREMISES SIGN: A sign which carries only advertisement that is incidental to a lawful use of the premises on which it is located, including signs or sign devices indicating the business transacted, services rendered, goods sold or produced on the premises, the rental or lease of products or building space, and/or name of the person, firm or corporation occupying the premises.
- G. SEMI-ILLUMINATED SIGN: Any sign located on a building which building face is uniformly illuminated over its entire area, including the area of the sign, by use of electricity or other artificial light. Semi-illuminated signs shall be permitted in any location where illuminated signs are permitted.
- H. SIGN: Any advertising device or surface placed out-of-doors, on or off premises, or placed indoors, when in view of the general public, which conveys information or identification. Included in this definition of “sign” shall be any structure used for said display and all sign supports.
- I. SIGN, GROSS SURFACE AREA OF: The gross surface area of a sign shall be the sum of all surface areas of the sign faces, except that ground or pole signs designed as double-faced signs, with both faces parallel and when the distance between the faces does not exceed two (2) feet, then only one face of the sign shall be considered in determining the sign area. In determining the gross surface area of a sign, each face of a sign may be broken down into not more than three (3) areas. Each surface area shall include the total area within a single continuous perimeter enclosing the extreme limits of the sign elements. Such perimeters need not include any structural elements lying outside the limits of such signs when they do not form an integral part of the display, nor shall it include architectural embellishments when such do not contain any advertising or printed copy, and are not lighted and do not exceed ten percent (10%) of the permitted sign area.
- J. SIGN, HEIGHT: Sign height shall be measured from ground level at the foundation of the sign to the highest element of the sign.
- K. SIGN AREA, MAXIMUM TOTAL GROSS SURFACE AREA: Maximum allowed square footage of sign area permitted per zoning lot.
- L. SIGN SETBACK: The minimum sign setback shall be the horizontal distance between a sign and a front and side lot line, as measured from that part of the sign, including its extremities and supports, nearest to any point on an imaginary vertical plane projecting from the front and side lot line.
- M. SIGN STRUCTURE: An element or assemblage of elements which supports or is capable of supporting a sign. A sign structure may be free-standing, attached to a building, an integral part of the building, or combination thereof.



## ARTICLE 14 DISTRICT SIGN REGULATIONS

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- N. **STRUCTURAL MEMBER:** A component part of a structural system required to carry the primary supportive stresses of the building to the ground, as opposed to members carrying little or no supportive stresses other than their own weight, and functioning as an in-fill or nonstructural enclosure.
- O. **UNIFIED SHOPPING CENTER:** A group of retail stores and/or service establishments designed to serve a community or neighborhood.
- P. **VISIBILITY TRIANGLE:** The triangular area formed by the intersecting street right-of-way lines and a straight line joining said street right-of-way lines at points which are thirty (30) feet distant from the point of intersection, measured along said right-of-way lines.

### CLASSIFICATION OF SIGNS

#### 2. Functional Types of Signs

- A. **ADVERTISING SIGN:** A sign which directs the attention of the public to a business, commodity, service or entertainment conducted, sold, or furnished at a location OTHER than the premises on which the sign is located or to which it is affixed.
- B. **ADVERTISING DECORATION:** Any sign which has attached various sign materials used for temporary display and decoration, including streamers, banners, pennants, pinwheels, commercial flags, bunting, and similar devices.
- C. **BILLBOARD:** An off-site sign, or portion thereof, consisting of outdoor signs which advertise, promote, or otherwise disseminate information pertaining to goods, products, or services, including charitable services, political services or appeals, not related to goods, products, or services which comprise a primary use on the premises where the sign is located. Such signs include:
  - 1) Poster panels or bulletins normally mounted on a building wall or freestanding structure with advertising copy in the form of pasted paper.
  - 2) Multi-prism signs, which are poster panels or bulletins normally mounted on a building wall or freestanding structure with advertising copy in the form of pasted paper and alternating advertising message on the one (1) display area.
  - 3) Painted bulletins, where the advertiser's message is painted directly on the background of a wall-mounted or freestanding display area.
- D. **BULLETIN BOARD SIGN:** An on-premises sign containing the name of the institution or organization, which may include names of persons connected with it, announcing persons, events or activities occurring at the institution or organization. Such signs may also present a greeting or similar message.
- E. **BUSINESS SIGN:** A sign which directs attention to a business or profession conducted, or to a commodity or service sold, offered or manufactured, or to an entertainment offered on the premises where the sign is located.

## ARTICLE 14 DISTRICT SIGN REGULATIONS

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- F. CONSTRUCTION SIGN: A temporary on-site sign indicating the names of architects, engineers, landscape architects, contractors, similar artisans, and financiers involved in the design and construction of a structure or project during the period of construction.
- G. DIRECTIONAL SIGN: An on-site sign containing words or symbols indicating an entrance to, or exit from, a building as well as the location of parking, loading, restrooms, and emergency entrances which are for the convenience of the public.
- H. FARM/RANCH DIRECTIONAL SIGN: A sign which provides direction to the headquarters of the farm or ranch.
- I. FIRST AMENDMENT SIGN: A sign which gives a non-commercial opinion of the sign owner and which is located on the property owned or occupied by the owner of the sign.
- J. IDENTIFICATION SIGN: A sign giving the name and address of a building, business, development or establishment.
- K. NAMEPLATE SIGN: A sign giving the name and/or address of the owner or occupant of a building or premises on which it is located, and where applicable, a professional title.
- L. OFFICIAL SIGN: A sign erected, maintained and owned by a public entity within its own jurisdiction or, for a city or affiliated entity, within three (3) miles of the city limits.
- M. POLITICAL SIGN: A sign pertaining to the announcement of an individual being a candidate for an elective political office. Any such sign exceeding thirty-two (32) square feet of gross surface area shall be classified as an off-site sign and regulated accordingly.
- N. PROJECT DIRECTORY SIGN: An on-site sign containing the names and locations, in list or map form, of the individual components making up a planned unit development, shopping center, or similar project.
- O. PROJECT TITLE SIGN: An on-site sign which carries the overall name of a residential subdivision, shopping center, industrial park, medical complex, planned unit development, mobile home park, and similar projects.
- P. REAL ESTATE SIGN: An on-premises sign displayed for the purpose of offering real property for sale, lease or rent.
- Q. RURAL BUSINESS SIGN: A sign which provides direction to the location of a business.
- R. SERVICE SIGN: A sign which is owned by and displays information on a non-profit, service, charitable and/or religious organization or group.
- S. SPECIAL SIGN: Any sign classified as a farm/ranch directional sign, rural business sign and/or a service sign. These signs are permitted only so long as they remaining allowable under the Kansas Highway Advertising Control Act as administered by the Kansas Department of Transportation.
- T. TEMPORARY SIGN: Any on-site sign, including, but not limited to, signs of lightweight cardboard, airborne, plastic or paper material, intended to be displayed for not more than sixty (60) days.

## ARTICLE 14 DISTRICT SIGN REGULATIONS

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### 3. Structural Types of Signs.

- A. **AWNING SIGN:** Any sign affixed directly on, painted on or attached to an awning.
- B. **CANOPY SIGN:** Any sign affixed directly on, painted on or attached to a canopy.
- C. **GROUND SIGN:** A sign placed upon, or supported by, the ground independently of any building or structure on the property. This includes a sign supported on poles or posts, the base of the face which is less than six (6) feet above ground level.
- D. **MARQUEE SIGN:** Any sign mounted on, painted on or supported by a marquee.
- E. **POLE SIGN:** A sign whose base of the face of which is more than six (6) feet above ground level and is supported by poles or posts.
- F. **PORTABLE SIGN:** An on-site sign designed in such a manner to be readily movable and not permanently attached to the property. Any non-permanent sign not classed as a temporary sign shall be deemed to be a portable sign.
- G. **PROJECTING SIGN:** Any sign that is wholly or partially attached to and dependent upon a building for support and which projects more than 1 foot beyond the face of said building.
- H. **ROOF SIGN:** A sign mounted and supported wholly upon or over the roof of any structure.
- I. **WALL SIGN:** A sign attached to or painted on a wall in such a manner that the exposed face of the sign is in a plane approximately parallel to the plane of the wall.

### 14-103 GENERAL SIGN REQUIREMENTS

- 1. **Traffic Safety:** No sign shall be maintained at any location where it may interfere with the view of, or where it may obstruct view of, or interfere with, mislead or confuse traffic. Nor shall any sign be placed in the visibility triangle as defined in this section, or project into said area unless the bottom edge of the projecting sign is at least twelve (12) feet above the centerline grade of the intersecting streets.
- 2. **Clearance from Electrical Power Lines:** No metal ground sign shall be located within eight (8) feet vertically and eight (8) feet horizontally of electrical wire or conductors in free air carrying more than 48 volts, without regard to whether or not such wires or conductors are insulated or otherwise protected.
- 3. **Illuminated Signs:** Signs shall be shaded wherever necessary to avoid casting bright light upon property located in any residential district or upon any public street or park.
- 4. **Spotlights And Floodlights:** It shall be unlawful for any person to have any sign which is wholly or partially illuminated by floodlights or spotlights that interfere with the vision of pedestrian or vehicular traffic.
- 5. **Flashing or Moving Signs:** No flashing signs, rotating or moving signs, animated signs, signs with moving lights, or signs which create the illusion of movement shall be permitted. A sign whereon the current time and/or temperature is indicated by intermittent lighting shall not be deemed to be a flashing sign if the lighting changes are limited to the numerals indicating the time and/or temperature not more often than fifteen (15) seconds.

## ARTICLE 14 DISTRICT SIGN REGULATIONS

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6. Signs Not To Be Located Within Public Right-of-Way: No sign shall be erected, constructed or maintained within the right-of-way of any street, avenue, highway, alley, or upon public ground within the County.
7. Obstruction to Exit: No sign shall be erected so as to obstruct any fire escape, required exit, window, or door opening intended as a means of egress.
8. Obstruction to Ventilation: No sign shall be erected which interferes with any opening required for ventilation.
9. Signs on Trees or Utility Poles: No sign shall be attached to a tree or utility pole whether on public or private property.
10. Corner and Through Lots: On corner and through lots, each lot line that abuts a street or highway shall be considered a separate street frontage. On corner and through lots, restrictions that are phrased in terms of “signs per zoning lot” shall be deemed to permit the allowable number of signs facing each street or highway that abuts the lot.
11. Maintenance Required: Signs shall be maintained so as to be structurally sound and in a safe condition, and shall be kept in a state of undeteriorated appearance by means of painting, sealing or coating and repair or replacement of damaged parts, panels or lights.
12. Classification of Signs:
  - A. Functional Types
    - 1) Advertising or Billboard Sign
    - 2) Advertising Decoration Sign
    - 3) Bulletin Board Sign
    - 4) Business Sign
    - 5) Construction Sign
    - 6) Directional Sign
    - 7) Farm/Ranch Directional Sign
    - 8) First Amendment Sign
    - 9) Identification Sign
    - 10) Nameplate Sign
    - 11) Official Sign
    - 12) Political Sign
    - 13) Project Directory Sign
    - 14) Project Title Sign

## ARTICLE 14 DISTRICT SIGN REGULATIONS

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- 15) Real Estate Sign
- 16) Rural Business Sign
- 17) Service Sign
- 18) Temporary Sign

### B. Structural Types:

- 1) Ground Sign
- 2) Pole Sign
- 3) Portable Sign
- 4) Projecting Sign
- 5) Roof Sign
- 6) Temporary Sign
- 7) Wall Sign

## 14-104 PROCEDURAL REQUIREMENTS

1. Permit: No sign, except for signs listed in paragraph 5 of this section, shall be painted, constructed, erected, repainted, remodeled, relocated, or expanded unless such sign complies with the regulations of these Regulations. Permits shall be obtained from the Zoning Administrator. Fees for sign permits shall be as specified by the Governing Body. All signs shall be designed, constructed, erected and electrified in compliance with the adopted minimum standards as set forth in the "Building Code".
2. Application for Permit: Application for a permit shall be made in writing upon forms provided by the Zoning Administrator and shall contain, or have attached, the following information:
  - A. The name, address, and telephone number of the applicant.
  - B. The location of the building, structure or lot where the sign is to be located.
  - C. Position of the sign(s) in relation to nearby buildings and structures.
  - D. Two sets of prints showing the plans and specifications of the proposed sign and sign structure, along with the method of construction and attachment to the building or in the ground.
  - E. The name of the person, firm, corporation or association erecting the sign.
  - F. Written consent of the owner of the building, structure or land to which or on which the sign is to be erected.
  - G. Additional information as the Zoning Administrator shall require to show full compliance with this and all other applicable laws and regulations of Osage County, Kansas.

## ARTICLE 14 DISTRICT SIGN REGULATIONS

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3. Issuance of Permit: Upon the filing of an application for a sign permit, the Zoning Administrator or designate shall examine such plans and specifications, along with the premises upon which it is proposed to erect the sign, and other pertinent data, to determine if the provisions of the Sign Regulations of Osage County, Kansas, are complied with. If all such requirements are met, the permit shall be issued. If the work authorized by such permit is not started within 120 days from the date of its issuance, such permit shall become null and void.

The issuance of the Sign Permit as required by these Regulations shall not act in lieu of any other permits or fees required by any other provisions of these Regulations or any other rules or regulations applicable to such sign and its placement.

4. Permit Revocation: If the Zoning Administrator shall find that any sign subject to the Sign Regulations is unsafe or insecure; is a menace to the public; has been constructed or erected or is being maintained in violation of the provisions of the Sign Regulations, written notice shall be given to the owner, occupant, or person-in-charge, specifying the problem. If such person fails to remove or alter the sign so as to comply with the provisions of the Sign Regulations within 30 days of such notice, the Zoning Administrator may cause such sign to be removed or altered to comply with these Regulations. When in the opinion of the Zoning Administrator any sign is in such condition as to constitute an immediate hazard requiring immediate action to protect the public, he may erect barricades or cause the sign to be taken down, repaired, shored, or otherwise made safe without delay, and such action may, under such circumstances, be taken without prior notice to or hearing of the owner, agents, leinholders, and occupants.

All abandoned signs and their supports shall be removed within ninety (90) days from the date of abandonment. All signs structurally damaged shall be repaired or removed within ninety (90) days. The Zoning Administrator shall have the authority to grant a time extension not exceeding an additional ninety (90) days for an abandoned, non-damaged sign. If the owner, occupant, or person-in-charge, after due notice, fails or refuses to correct a violation of this Article, the Zoning Administrator shall cause such signs and their supports to be demolished and removed. If such sign cannot be demolished because it is painted on a building or other non-sign structure, such sign shall be painted over or removed by sandblasting.

The cost of the demolition, removal or repair of any sign under the provisions of this Article shall be levied, certified, and collected as a special assessment against the lot or tract of ground upon which the sign was located, which assessment, if not paid when due, shall be certified to the County Clerk for collection with other special assessments.

5. Exemptions From Permits: The following signs shall be exempt from paying fees and obtaining a sign permit; however such signs shall be subject to the Sign Regulations. (This exemption shall not be construed as relieving the owner of the sign from the responsibility for its meeting the structural and maintenance requirements as specified in these Regulations):
  - A. Real estate sign advertising the sale, rental or lease of the premises on which the sign is displayed, with the following limitations: One (1) unlighted sign per street frontage per listing, provided that a maximum of four (4) real estate signs be permitted on a zoning lot.
  - B. Temporary on-site signs placed in or upon windows of a commercial or industrial building, whether painted or attached.

## ARTICLE 14 DISTRICT SIGN REGULATIONS

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- C. Nonelectrical nameplates not exceeding 2 square feet in area.
- D. Nonelectrical construction signs denoting the architect, engineer or contractor when placed upon work under construction, and not exceeding 32 square feet in area.
- E. Nonelectrical identification signs.
- F. Nonelectrical memorial signs or tablets giving names of persons or buildings and date of erection not to exceed twenty-five (14) square feet in size.
- G. Signs of a duly constituted governmental body, including directional signs for public buildings and uses, traffic or similar regulatory devices, legal notices, warnings at railroad crossings, and other instructional or regulatory signs having to do with health, hazards, parking, swimming, dumping and other similar signs.
- H. Project title signs for subdivision identification, with the following limitations: The time period shall not exceed two (2) years, however, the Zoning Administrator may grant extensions every six (6) months until the subdivision is seventy percent (70%) developed. Such signs shall be unlighted, neither reflective nor fluorescent, and used solely for the purpose of advertising the subdivision. A permit shall be issued only after the final subdivision plat has been duly recorded. The sign shall be located at or near entrances to tract sections under construction and not more than two (2) sign structures shall be maintained in any one (1) subdivision less than forty (40) acres in size. For each additional forty (40) acres or major fraction thereof, one (1) additional sign may be erected. The maximum area shall be 128 square feet for each sign. The maximum length of the sign shall be sixteen (16) feet.
- I. Advertising decorations, temporarily displayed during special event periods only, such as grand openings, holidays, carnivals and the like, with a limit of twelve (12) such events and a total time limitation of six (6) weeks within any calendar year for any business or institution.
- J. Portable signs.
- K. Auction signs and real estate signs placed along roads and highways advertising auctions and/or property for sale off said roads or highways; provided, said signs shall not be placed more than 30 days prior to said auction or offering for sale and shall be removed within 7 days of the completion of said auction or sale. Said signs shall not be more than 32 square feet in area and shall not be illuminated.
- L. Political signs, when located on private property with the permission of the owner or tenants, and with the following limitations: Not more than four (4) signs for each street frontage, per zoning lot. Total area of all signs shall not exceed sixty-four (64) square feet per zoning lot. All signs shall be removed within seven (7) days following the election in which the candidate is elected to office or is eliminated from further participation in the election as a candidate.
- M. Flags or emblems of a government or of a political, civic, philanthropic, educational or religious organization, displayed on private property, but only if the flag or emblem is used solely as an identifying symbol and does not include advertising language.



## ARTICLE 14 DISTRICT SIGN REGULATIONS

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- N. Address numerals and other signs required to be maintained by law or governmental order, rule or regulation, provided that the content and size of the sign do not exceed the requirements of such law, order, rule or regulation.
  - O. Such additional signs as “No Hunting,” “No Fishing,” “No Trespassing” and other like signs.
6. Exemption From Fees: The following signs shall be exempt from paying fees; however, a permit shall be obtained and they shall be subject to the Sign Regulations. (This exemption shall not be construed as relieving the owner of the sign from the responsibility for its meeting the structural and maintenance requirements as specified in these Regulations):
- A. Nonelectrical bulletin boards not exceeding 32 square feet in area for public, educational, charitable, fraternal or religious institutions when such sign is located on the premises of such institution.
  - B. Directional signs.
7. Prohibited Signs: Any signs and supports which are located upon or over the public right-of-way, including streets, alleys and parkways, shall be prohibited; provided, however, the following exceptions shall be allowed:
- A. Signs and supports required by governmental authority.
  - B. Signs on commercial vehicles or commercial trailers which denote the name and address of a bona fide business which owns or leases said vehicle when these vehicles are lawfully operated or parked and not used expressly for the purpose of advertising a product, service or activity.
  - C. A temporary sign located on public property used to announce a special event or activity when written authorization is granted by both the Sheriff and the Zoning Administrator that the sign will not constitute a traffic hazard or attractive nuisance, and the sign is located in a proper zone.

### 14-105 DESIGN AND CONSTRUCTION STANDARDS

The design and construction of signs and sign structures shall be subject to the following standards:

- 1. Ground Signs:
  - A. Letters, Materials to be Secured: All letters, figures, characters, or representations in cutout or irregular form maintained in conjunction with, attached to or superimposed upon any ground sign shall be safely and securely built or attached to the sign’s structure.
  - B. Premises to be Kept Free of Weeds, Etc.: The premises surrounding all ground signs shall be maintained by the owner thereof in a sanitary and uncluttered condition, free and clear of all noxious substances, rubbish, litter and weeds.
- 2. Projecting Signs:
  - A. Removable Parts to be Secured: Any removable parts of a projecting signs, such as a cover of a service opening, shall be securely fastened by safety chains or hinges.



## ARTICLE 14 DISTRICT SIGN REGULATIONS

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- B. Location: The horizontal clearance between a projecting sign and the curb line shall be not less than 2 feet. A projecting sign projecting more than two-thirds of the distance from the property line to the curb line shall be not less than 12 feet above the ground or pavement below. A projecting sign projecting less than two-thirds of the distance from the property line to the curb line shall be not less than 8 feet above the ground or pavement below.
- C. Awnings: Awnings, whether used as a sign or not, may extend over public property not more than 7 feet from the face of a supporting building but no portion shall extend nearer than 2 feet to the face of the nearest curb line measured horizontally. In no case shall the awning extend over public property greater than two-thirds of the distance from the property line to the nearest curb in front of the building site.

### 14-106 DISTRICT REGULATIONS

- 1. Agricultural and Single-Family Residential Districts: The following types of signs, along with applicable size, height, and setback requirements in classes of districts zoned “AG”, “RR”, “SR”, “R-1” and “V-1” are permitted:
  - A. Functional Types
    - 1) Construction Sign
    - 2) First Amendment Sign
    - 3) Identification Sign
    - 4) Nameplate Sign
    - 5) Official Sign
    - 6) Political Sign
    - 7) Project Title Sign
    - 8) Real Estate Sign
    - 9) Service Sign
  - B. Structural Types
    - 1) Ground Sign
    - 2) Wall Sign
  - C. Maximum Gross Surface Area
    - 1) Construction Signs: Thirty-two (32) square feet.
    - 2) First Amendment Signs: Thirty-two (32) square feet.
    - 3) Identification Signs: Eight (8) square feet.
    - 4) Nameplate Signs: One (1) square foot.

## ARTICLE 14 DISTRICT SIGN REGULATIONS

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- 5) Official Signs: One hundred (100) square feet.
  - 6) Political Signs: Thirty-two (32) square feet.
  - 7) Project Title Signs: Thirty-two (32) square feet.
  - 8) Real Estate Signs: Six (6) square feet.
  - 9) Service Signs: Eight (8) square feet.
  - 10) Maximum Height: Fifteen (15) feet.
  - 11) Required Setback: None for all permitted signs, but in no case shall any sign be placed on or project over public property.
  - 12) Illumination: No sign shall be illuminated.
2. Portable Signs: Portable signs shall conform to the following regulations:
    - A. Portable signs shall only be permitted in the “AG” district.
    - B. Portable signs shall be setback a minimum of five (5) feet as measured from the curb or roadway line to the nearest extremities of the sign, and shall not be located so as to hinder visibility or the interfere with the free and safe movement of traffic.
3. Billboard Signs: Billboard signs shall conform to the following requirements:
    - A. Billboard signs shall be constructed to meet the construction standards as established in the applicable building code.
    - B. Billboard signs shall be located a minimum of eighty (80) feet from a residential property line.
    - C. The gross surface area of any billboard sign shall not exceed 200 square feet.
    - D. There shall be a minimum separation of 200 feet between all billboard signs on the same side of the street.
    - E. Billboard signs shall have a setback of not less than the greater of the following:
      - 1) Thirty (30) feet.
      - 2) The greatest setback of all the front buildings on the block on which the billboard sign is located.
      - 3) Billboard signs shall have a maximum height of thirty-five (35) feet.
      - 4) All lighting of billboard signs shall be so shielded as not to produce intensive or excessive light or glare on adjacent property.

## ARTICLE 14 DISTRICT SIGN REGULATIONS

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### 14-107 NONCONFORMING SIGNS

Every sign in existence at the time these Sign Regulations become effective may continue in existence subject to the following:

1. It shall not be altered structurally or moved unless it is made to comply with the provisions of these Regulations. However, the changing of the movable parts of an existing sign that is designed for such changes, or the repainting or reworking of display matter shall not be deemed a structural alteration.
2. The lawful use of a sign existing on the effective date of these Regulations, although such sign does not conform to the provisions hereof, may continue; but if such nonconforming use is discontinued for a period of six months, any future use of such sign shall be in conformity with the provisions of these Regulations.
3. No sign which has been damaged by fire, wind, explosion, or act of God to the extent that 50 percent or more of the sign is destroyed, shall be restored except in conformity with these Regulations. Any sign which has been damaged to an extent less than 50 percent may be restored to its condition which existed as a nonconforming use prior to its damage.

## ARTICLE 15 DISTRICT HEIGHT, AREA, AND BULK REGULATIONS

### 15-101 DISTRICT HEIGHT, AREA, AND BULK REGULATIONS:

ZONING DISTRICT	Maximum Height of Building		Minimum Yard Requirement in Feet			Minimum Lot Dimensions in Feet		Minimum Lot Area in Square Feet
	Feet	Stories	Front Yard	Side Yard (A)	Rear Yard	Width	Depth	
"AG" Agricultural (B)	35 (C)	2 ½ (C)	75 (C)	50 (C)	50 (C)	660	660	40 acres (D)
"SR" Suburban Residential (B)	35	2 ½	50	30	50	165	250	43,560 (E) to 130,680 (E)
"R-1" Single-Family Residential (B)	35	2 ½	30	15	20	100	150	20,000
"V-1" Village District	35	2 ½	25	5	20	-	-	-

- A. A side yard shall be provided on each side of the lot. The dimension given is for one side only.
- B. Requirements apply only to property in the unincorporated portion of Osage County.
- C. Requirements apply only to properties on major roads or highways.
- D. Property described as 1/4 of a 1/4 of a section or as a Government Lot shall be considered "AG" Agricultural even though the property may have less than a full 40 acres of land.
- E. Minimum lot size is 43,560 square feet or 1 acre; maximum lot size is 130,680 square feet or 3 acres.

## **ARTICLE 16 SUPPLEMENTARY HEIGHT, AREA AND BULK REGULATIONS**

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### **SECTIONS:**

#### **16-101 APPLICATION**

#### **16-102 MODIFICATION OF HEIGHT REGULATIONS**

#### **16-103 MODIFICATION OF AREA REGULATIONS**

#### **16-101 APPLICATION**

The regulations set forth in this Article qualify or supplement the district regulations appearing elsewhere in these Regulations.

#### **16-102 MODIFICATION OF HEIGHT REGULATIONS**

1. The height regulations as prescribed in these Regulations shall not apply to the following:
  - A. Belfries
  - B. Chimneys
  - C. Church Spires
  - D. Conveyors
  - E. Cooling Towers
  - F. Elevator Penthouses
  - G. Fire Towers
  - H. Flag Poles
  - I. Grain Elevators
  - J. Monuments
  - K. Ornamental Towers and Spires
  - L. Smoke Stacks
  - M. Stage Towers or Scenery Lofts
  - N. Tanks
  - O. Water Towers
  - P. Lighting Poles or Standards
2. Public or semi-public service buildings, hospitals, institutions, or schools, when permitted in a district, may be erected to a height not exceeding 75 feet, when the required side and rear yards are increased by at least 1 foot for each 1 foot of additional building height above the height regulations for the district in which the building is located.

## ARTICLE 16 SUPPLEMENTARY HEIGHT, AREA AND BULK REGULATIONS

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### 16-103 MODIFICATION OF AREA REGULATIONS

#### 1. Yards, generally:

- A. Except as herein provided for accessory buildings and structures, whenever a lot abuts upon a public alley, one-half of the alley width may be considered as a portion of the required yard.
- B. Every part of a required yard shall be open to the sky, except as authorized by this Article. Ordinary projections of sills, awnings, canopies, belt courses, air conditioning units, chimneys, cornices, and ornamental features may project to a distance not to exceed 24 inches into a required yard setback.
- C. In the event that a lot is to be occupied by a group of two or more related buildings to be used for residential, school, institutional, hotel, or motel purposes, there may be more than one main building on the lot where such buildings are arranged around a court having a direct street access; provided, however:
  - 1) That said court, between buildings that are parallel or within 45 degrees of being parallel, shall have a minimum width of 30 feet for 1-story buildings, 40 feet for 2-story buildings, and 50 feet for 3-story buildings, and, in no case may such buildings be closer to each other than 15 feet;
  - 2) Where a court having direct street access is more than 50 percent surrounded by a building, the minimum width of the court shall be at least 20 feet for 1-story buildings, 30 feet for 2-story buildings, and 40 feet for 3-story buildings.
- D. Where a lot is used for a commercial or industrial purpose, more than one main building may be located on the lot, but only when such buildings conform to all open space requirements around the lot for the district in which the lot is located.

#### 2. Accessory Buildings and Structures:

- A. Except as herein provided, no accessory building shall project into a required yard setback along any street.
- B. In District "V-1", accessory buildings may be located in a required side or rear yard; however, no accessory building may be located closer than 5 feet from a rear lot line, nor less than 3 feet from a side lot line. No alley may be encroached upon in meeting this requirement. No accessory building shall be placed in a front yard area closer to the front property line than the main building or structure on the property.
- C. Filling station pumps and pump islands may occupy the required yards; provided, however, that they are not less than 15 feet from the property line, and further provided that canopies and other similar coverings over the pumps and pump islands shall have at least 14 feet of clearance and shall not project beyond the property line.
- D. Accessory, open and uncovered swimming pools and permanent barbecue grills may occupy a required rear yard, provided they are not located closer than 5 feet to the rear lot line nor closer than 3 feet to a side lot line. No alley may be used in meeting this requirement.

## ARTICLE 16 SUPPLEMENTARY HEIGHT, AREA AND BULK REGULATIONS

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- E. Accessory storm caves which are not a part of the main building may occupy a required rear yard, provided they are not located closer than 5 feet to the rear lot line nor closer than 3 feet to a side lot line. No alley may be used in meeting this requirement.
  - F. Accessory buildings which are not a part of the main building, although connected by an open breezeway, may be constructed under the requirements of Section 16-103(2)(b).
  - G. Parabolic or satellite dish-type antennas may be placed in any district.
3. Front Yards:
- A. When an official line has been established for the future widening or opening of a street or major thoroughfare upon which a lot abuts, then the depth of a front or side yard shall be measured from such official line to the nearest line of the building.
  - B. On double frontage lots, the required front yard shall be provided on each street frontage.
  - C. Open, unenclosed porches, platforms, or paved terraces, not covered by a roof or canopy and which extend or project into the front and side yard shall not extend or project into the required front yard more than 10 feet or into the required side yard more than 6 feet.
  - D. Where 25 percent or more of the street frontage within 200 feet of the property in question, including properties on the same side of the street in the next block, is improved with buildings that have a front yard (with a variation of 6 feet or less) that is greater or less than the required front yard in the district, no building shall project beyond the average front yard so established; provided, however, that a depth of front yard of more than 50 percent in excess of the depth of the required front yard in the district in which the lot is located shall not be required. Where 40 percent or more of the street frontage in a block is improved with buildings that have no front yard, no front yard shall be required for the remainder of the street frontage.
  - E. On corner lots, a front setback shall be provided along the shorter street frontage. A side yard setback shall be provided along the other street frontage.
4. Side Yards: The minimum depth of side yards for schools, libraries, churches, community houses, and other public and semi-public buildings in residential districts shall be 25 feet, except where a side yard is adjacent to a business or industrial district, in which case the depth of the yard shall be as required in the district in which the building is located.
5. Rear Yards: Open or lattice-enclosed fire escapes, outside stairways and balconies opening upon fire towers, and the ordinary projections of chimneys and flues may project into the required rear yard for a distance of not more than 5 feet, but only where the same are so placed as not to obstruct light and ventilation.
6. Corner Visibility: No sign, fence, wall, hedge, planting, or other obstruction to vision, extending to a height in excess of 3 feet above the established street grade measured from the crown of the street, shall be erected, planted, or maintained within the visibility triangle area of a corner lot.
7. Easements: No building, either a main or an accessory building, shall be constructed, moved, or altered so as to encroach onto or within a platted or recorded easement.

## **ARTICLE 17 SUPPLEMENTARY USE REGULATIONS; CONDITIONAL USES; ACCESSORY USES; PROHIBITED USES**

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### **SECTIONS:**

- 17-101 APPLICATION OF CONDITIONAL USES**
- 17-102 ADDITIONS AND CHANGES TO CONDITIONAL USES**
- 17-103 CONDITIONAL USES ENUMERATED**
- 17-104 CONTINUANCE OF A CONDITIONAL USE**
- 17-105 ACCESSORY USES**
- 17-106 ELIGIBILITY FOR ACCESSORY USE**
- 17-107 ACCESSORY USES ALLOWED**
- 17-108 SPECIALTY ACCESSORY USES**
- 17-109 ACCESSORY BUILDING OR STRUCTURE USE**
- 17-110 PROHIBITED USES**

### **17-101 APPLICATION OF CONDITIONAL USES**

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

Before the location or establishment thereof, or before any change or use of the premises existing at the time of the effective date of these Regulations or permitted as herein provided is made, a development plan in sufficient detail and a statement as to the proposed use of the buildings, structures, and premises shall be submitted to the Planning Commission as specified in Article 10 of these Regulations. The Planning Commission shall hold a public hearing following the provisions also outlined in Article 22 of these Regulations and shall review such development plan and statements and shall, after a careful study of the effect that such buildings, structures, or uses will have upon the surrounding property, submit a recommendation to the Governing Body.

Following receipt of the Planning Commission's recommendation, the Governing Body may, within the specifications herein provided, permit such buildings, structures, or uses where requested, provided that the public health, safety, morals, and general welfare will not be adversely affected, that ample off-street parking facilities will be provided, and that necessary safeguards will be provided for the protection of surrounding property, persons, and neighborhood values. In this regard, the Governing Body may impose reasonable conditions on the approval of a Conditional Use Permit including, but not limited to, those items identified in Article 10 of these Regulations.

### **17-102 ADDITIONS AND CHANGES TO CONDITIONAL USES**

All requests for additions and structural alterations to Conditional Uses previously approved by the Governing Body shall be considered in the same procedure as outlined in Section 17-101 herein.



## **ARTICLE 17 SUPPLEMENTARY USE REGULATIONS; CONDITIONAL USES; ACCESSORY USES; PROHIBITED USES**

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### **17-103 CONDITIONAL USES ENUMERATED**

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

1. Adult entertainment businesses subject to the following conditions:
  - A. The applicant shall specify the exact use proposed, (i.e. adult bookstore, adult theater, modeling studio, strip show, etc.)
  - B. No adult use may operate within two thousand five hundred (2,500) feet of any existing residentially zoned or used property. (property line to property line)
  - C. No adult use may operate within two thousand five hundred (2,500) feet of any existing public, private, or parochial school, library, park, playground, church, or other places where minors tend to congregate, existing prior to the request. (property line to property line)
  - D. No adult use may operate within two thousand five hundred (2,500) feet of any other such use. (property line to property line.)
  - E. Advertisements, displays, or other promotional materials shall not be shown or exhibited so as to be visible or audible to the public from public rights-of-way other than permitted signs. Permitted signs shall be limited to those whose copy includes only the name of the business, place, organization, or building identified. The size, location, and other requirements of such signs are controlled by Article 8 of these regulations.
2. Airports, aviation fields, helio-ports, and/or landing fields, either publicly or privately held.
3. Apartment houses in any variety of design, including but not limited to garden apartments, townhouses, or condominiums
4. Bed and breakfast facility.
5. Buildings, structures or premises for public utility services or public service corporations; including but not limited to, water treatment plants, wastewater treatment plants, pump stations, filter beds, water towers, substations, reservoirs, and utility maintenance shops and yards.
6. Cemeteries, mausoleums or crematories for the disposal of the dead.
7. Churches and church-related facilities including camps, schools, retreat centers and similar facilities; publicly-owned and operated community buildings, art gallery, museums and libraries.
8. Commercial parking lots.
9. Confined animal feeding operations including, but not limited to, commercial stockyards and/or feedlots and/or corporate farms, including hog, dairy and poultry, provided:
  - A. The development plan shall include an area map showing the location of all habitable structures within 3 miles of all properties proposed to be used in the operation, including lands on which facilities and structures are to be constructed as well as land used for disposal of animal wastes by any means. All facilities and structures, including waste

## **ARTICLE 17 SUPPLEMENTARY USE REGULATIONS; CONDITIONAL USES; ACCESSORY USES; PROHIBITED USES**

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- lagoons, shall be located a minimum of one (1) mile from all habitable structures and places frequented by the public. All lands used for effluent disposal shall be located a minimum of one half (1/2) mile from all habitable structures and places frequented by the public and shall have the effluent injected or worked into the soil within 48 hours of application to the land. The separation requirements may be reduced if the occupants of any habitable structures within said area agree in writing to waive the requirement and said agreement is recorded with the Osage County Register of Deeds.
- B. Copies of all permit documents, plans, specifications or reports required to be submitted to the KDHE or any state agency shall be submitted with the application.
  - C. A copy of the Emergency Incident Response Plan or any other such titled or referenced document that identifies the response procedures to be followed by the operators in the event of any incident necessitating an emergency response shall be submitted with the application. The Plan shall include the names, titles and all telephone numbers to be called in the event of such an emergency.
  - D. The applicant shall identify the method to be used in the handling and disposal of all dead animals that are generated from all the operations.
  - E. All roads not a part of the primary highway system of the State of Kansas intended to be used by the applicant as a means of ingress and egress to the proposed facility shall be designated on the application. Final approval of the designated roads to be used shall be made a part of the Conditional Use Permit, if approved. A construction and maintenance agreement between the applicant and Osage County shall be required. Such agreement shall specify the standards to which such roads will be reconstructed, if necessary, and the standards to which such roads will be subsequently maintained by the owner/operator of the confined animal feeding operation. The agreement shall also specify the form, manner, timing, and frequency of maintenance and upkeep. The responsibility of determining sufficiency of compliance with the road agreement shall be with Osage County or its designee.
  - F. If the Conditional Use Permit is approved, the applicant and all successors or operators of the facilities shall submit copies of all annual reports and documents required to be submitted to all state regulatory agencies to the Osage County Clerk who shall keep them on file.
- 10. Contractor's shop and/or yard, including construction equipment and/or material storage areas.
  - 11. Drive-in theatres.
  - 12. Exposition centers and/or buildings.
  - 13. Explosives, fireworks, ammunition, black powder, or similar material wholesale sales, storage, warehousing, and/or manufacturing.
  - 14. Fairgrounds.
  - 15. Fire stations.

## **ARTICLE 17 SUPPLEMENTARY USE REGULATIONS; CONDITIONAL USES; ACCESSORY USES; PROHIBITED USES**

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16. Grain elevators and its accessory activities including, but not limited to, bulk fuel storage facilities, ammonia storage, tire repair facilities, etc.
17. Group Boarding Home, Group Day Care Home, Child Care Center, Day Care Center, Detention Center, Family Day Care Home, or Residential Center, provided:
  - A. The applicant shall submit, as a part of the application, the plans for the proposed facility giving the type of services to be rendered, the number of persons to be placed in the facility, the number of staff to be employed and other information that will help in determining the extent of services to be provided.
  - B. A letter from the Osage County Health Officer shall be submitted by the applicant, giving the current status of the applicant's license to operate the proposed facility and listing all requirements yet to be met in order for the proposed facility to be granted authorization to begin its operation.
  - C. Off-street parking at a rate of one space per employee plus two additional spaces for guests.
  - D. When operated out of an existing or proposed residential structure, the following standards shall be met:
    - 1) That only one non-illuminated ground or wall sign not more than 4 square feet in area is used to advertise the home occupation.
    - 2) Outside play areas shall be fenced.
18. Hospitals, nursing or convalescent homes, congregate care facilities and retirement housing.
19. Hospital or clinic for large or small animals, provided, such hospital or clinic and treatment rooms be maintained within a completely enclosed, soundproof building, and that such hospital or clinic be operated in such a way as to produce no objectionable odors outside its walls.
20. Judicial centers, jails, penal or correctional institutions.
21. Keeping of exotic birds or animals.
22. Keeping of farm animals such as horses, ponies, cows, hogs, pigs and/or sheep on a lot or tract of less than three (3) acres.
23. Kennels, either boarding or breeding, provided:
  - A. Pens or open kennels shall be located at least 50 feet from the front lot line and at least 30 feet from any side or rear lot line.
  - B. Open pens shall not be required to be served by sanitary sewer facilities unless soil conditions will not support adequate percolation.
24. Manufactured home parks, subject to the standards established in the Manufactured Home and Recreational Vehicle Code of Osage County, Kansas.
25. Mortuaries and attendant accessory activities and facilities.

## **ARTICLE 17 SUPPLEMENTARY USE REGULATIONS; CONDITIONAL USES; ACCESSORY USES; PROHIBITED USES**

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26. Parks and playgrounds.
27. Radio or television broadcasting towers and/or stations, microwave transmitting and/or receiving towers and/or stations, commercial telecommunication towers, or any tower or other similar structure 50 feet or more in height; whether publicly or privately owned, provided:
  - A. The location of every tower must be such that it is at least a minimum distance from all property lines equal to  $\frac{1}{2}$  the height of the tower. A plot plan shall be submitted with the application.
  - B. Every commercial telecommunication tower shall be designed to provide co-location with a minimum of 3 users.
  - C. No new tower location shall be approved unless the applicant shall show that there is not sufficient or usable space on existing or approved towers in the same service area. Such verification shall be in the form of written correspondence from the owner of such towers or structures of their unavailability.
  - D. All lighting necessary to comply with the FAA lighting requirements shall consist of dual lighting structures with day time strobe lights on medium intensity and night time red lights only. No high intensity strobes or night time strobes shall be permitted. Further, all towers requiring lighting shall provide battery backup or other alternative power source to assure lighting operations during times of power outages.
  - E. Any communication tower that is unused for a period of six (6) months or more shall be declared abandoned and shall be notified of the necessity of removing the tower and appurtenances and reclaiming the lands as provided herein.
  - F. A plan for reclamation of the site shall be prepared and submitted as a part of the application. The plan shall indicate a timetable for the reclamation of the proposed use of the site upon the removal of the tower. The applicant shall also provide financial security in a form acceptable to the County to assure the reclamation of the property shall occur in conformance with the reclamation plan.
28. Recreational or sports-related activity or facility, whether publicly or privately owned.
29. Recreational vehicle campground, subject to the standards established in the Manufactured Home and Recreational Vehicle Code of Osage County, Kansas.
30. Schools, preschools or kindergartens, either publicly or privately owned or operated.
31. Show arenas, rodeo arenas and/or similar facilities.
32. Wind Energy Conversion System - Private on lands zoned other than "AG" Agricultural.
33. Truck stops and/or truck terminals.
34. Zoos, commercial aquariums, or aviaries.
35. Placement of any "non-traditional structure" for the purposes of creating a residence.

## **ARTICLE 17 SUPPLEMENTARY USE REGULATIONS; CONDITIONAL USES; ACCESSORY USES; PROHIBITED USES**

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

### **17-104 CONTINUANCE OF A CONDITIONAL USE**

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

### **17-105 ACCESSORY USES**

Buildings and structures may be erected and land may be used for purposes which are clearly incidental to, and customarily and commonly associated with the main permitted use of the premises. Such accessory buildings and uses shall be so constructed, maintained and conducted as to not produce noise, vibration, concussion, dust, dirt, fly ash, odor, noxious gases, heat or glare which is injurious, damaging, unhealthful or disturbing to adjacent property or the users thereof and shall be on the premises of the main use.

### **17-106 ELIGIBILITY FOR ACCESSORY USE**

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

### **17-107 ACCESSORY USES ALLOWED**

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

1. In District “AG” Agricultural, the following, or similar accessory uses are allowed:
  - A. Open or enclosed storage of farm materials, products or equipment; but not junk.
  - B. Any and all farm buildings, including, but not limited to, barns, stables, sheds, toolrooms, shops, bins, tanks and silos.
  - C. The use of a manufactured home as an accessory dwelling on land used for agricultural purposes when used by persons employed thereon or as a caretaker, including their families. At no time shall a manufactured home or the land upon which it sits be intended and/or used as a rental unit in the “AG” District.
  - D. Fuel storage, tanks and dispensing equipment for fuels used solely for a farming operation. No retail sales of such fuels shall be allowed as an accessory use.
  - E. Wholesale or retail sales of agricultural products grown or raised by the farm operator.
  - F. A hobby activity operated by the occupant of the premises purely for personal enjoyment, amusement or recreation.
  - G. Home occupations.
  - H. Wind Energy Conversion System - Private, as defined herein.

## **ARTICLE 17 SUPPLEMENTARY USE REGULATIONS; CONDITIONAL USES; ACCESSORY USES; PROHIBITED USES**

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- I. Solar Energy Conversion System - Private, as defined herein.
- J. Accessory buildings and uses commonly associated with residential activity including, but not limited to, the following:
  - 1) Private garages
  - 2) Guest houses
  - 3) Home barbecue grills
  - 4) Small storage sheds
  - 5) Satellite dish antennas
  - 6) Accessory off street parking and loading spaces
- 2. In District “SR” Suburban Residential, “R-1” Single-Family Residential, and “V-1” Village Districts only the following accessory uses are allowed:
  - A. Accessory buildings and uses commonly associated with residential activity, including, but not limited to, the following:
    - 1) Accessory off street parking and loading spaces
    - 2) Fences or walls
    - 3) Flag poles
    - 4) Gates or guard houses for subdivisions
    - 5) Guest houses
    - 6) Home barbecue grills
    - 7) Parabolic and satellite dish-type antennas
    - 8) Play equipment
    - 9) Private garages and carports
    - 10) Servants quarters
    - 11) Small storage sheds
    - 12) Solar collectors
    - 13) Swimming pools
    - 14) Television and radio receiving antennas less than 50 feet in height
    - 15) No accessory building or use shall occupy a required front yard (except basketball goals, flag poles and fences as permitted.)

## **ARTICLE 17 SUPPLEMENTARY USE REGULATIONS; CONDITIONAL USES; ACCESSORY USES; PROHIBITED USES**

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- B. A hobby activity may be operated as an accessory use by the occupant of the premises purely for personal enjoyment, amusement or recreation.
- C. In the “SR” Suburban Residential District on lots three (3) acres or larger, agricultural activities may be conducted as accessory activities, such as growing of crops, pasturage of animals, growing of hay, or other similar activities. However, at no time shall such activity be classified or permitted as the primary usage of the land; said usage being as a residential home site.
- D. Home occupations such as, but not limited to, the following:
  - 1) Accountant
  - 2) Architect
  - 3) Artist
  - 4) Attorney
  - 5) Author or writer
  - 6) Chiropractor
  - 7) Clergyman
  - 8) Cosmetologist
  - 9) Counselor
  - 10) Engineer
  - 11) Home crafts
  - 12) Insurance Agent
  - 13) Osteopath
  - 14) Photographer
  - 15) Planner
  - 16) Real Estate Agent
  - 17) Seamstress/Dressmaker
  - 18) Secretary/Typist
  - 19) Teaching or instruction provided not more than 3 students are taught at any one time and not more than 12 students per day.

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

- a. That the home occupation shall be carried on wholly within a main building or structure, or within a permitted accessory building or structure, provided that the primary use of the

## **ARTICLE 17 SUPPLEMENTARY USE REGULATIONS; CONDITIONAL USES; ACCESSORY USES; PROHIBITED USES**

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main building or structure is clearly the dwelling used by the person as his or her private residence.

- b. That no person other than members of the household living on the premises and two (2) outside persons shall be employed.
- c. That only one nonilluminated ground or wall sign not more than 4 square feet in area is used to advertise the home occupation.
- d. That no display or storage of equipment or materials outside of a building or structure shall be permitted.
- e. That no equipment or machine is used in such activities that is perceptible off the premises by reason of noise, smoke, dust, odor, heat, glare, radiation, electrical interference or vibration.
- f. That off street parking and loading shall be provided and that no generation of substantial volumes of vehicular or pedestrian traffic or parking demand shall be permitted.

### **17-108 SPECIALTY ACCESSORY USES**

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

- 1. Hotels, Motels, Motor Hotels: The following are accessory uses within a hotel, motel or motor hotel:
  - A. Restaurant
  - B. Health clubs, spas and exercise rooms
  - C. Clubs
  - D. Drinking establishments
  - E. Banquet rooms
  - F. Notion counters
  - G. Newspaper and magazine counters
  - H. Vending machines
  - I. Arcades
  - J. Beauty and barber shops
  - K. Flower and gift shops
  - L. Swimming pools

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



## **ARTICLE 17 SUPPLEMENTARY USE REGULATIONS; CONDITIONAL USES; ACCESSORY USES; PROHIBITED USES**

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2. Hospitals: The following are accessory uses within a hospital:
  - A. Residential quarter for staff and employees
  - B. Nursing and convalescent quarters
  - C. Storage and utility buildings
  - D. Food service and vending machines
  - E. Laundry and dry cleaning pickup and delivery
  - F. Flower and gift shops
  - G. Other similar services for hospital personnel, visitors and patients
3. Construction Sites: Construction and hauling trailers may be used as a temporary construction office on the site of a construction project, provided such construction or hauling trailer is removed upon completion of the project.
4. Fences or walls in the “V-1” Village District only, subject to the following:
  - A. Fences or walls may be constructed to a maximum height of eight (8) feet above the average grade subject to the restrictions of this Article. For all fences or walls greater than six (6) feet in height, where a new fence or wall is constructed or an existing fence or wall is being extended, a permit shall be obtained from the County. A fence permit shall also be required for the replacement or reconstruction of 50 percent (50%) or more of the linear feet of the entire existing fence. Any such replacement or reconstruction shall comply with all the provisions of this Article except setbacks. In determining the height of a fence, the material used in the fence posts shall not be considered.
  - B. Retaining walls may be permitted where they are reasonably necessary due to the topography of the lot, where the wall is located at least two (2) feet from any street right-of-way, and where the wall does not extend more than six (6) inches above the ground level of the land being retained.
  - C. All fences or walls constructed prior to the adoption of these Regulations which do not meet the standards of this Article may be replaced and maintained resulting in a fence the same size, type and material; provided, however, that no fence shall be replaced or reconstructed in a manner which obstructs the sight distance triangles as defined in this Article.
  - D. The following restrictions and standards shall apply to all fences and walls:
    - 1) Location.
      - a) Front yard. A fence or wall not more than three (3) feet in height may project into or enclose any required front yard or side yard to a depth from the street line equal to the required depth of the front yard.
      - b) Rear yard. A fence or wall may be constructed on the rear property line on all lots whose rear lot lines abut another lot or a designated thoroughfare. However, no fence shall be permitted in any platted easement. In the case of a double

## **ARTICLE 17 SUPPLEMENTARY USE REGULATIONS; CONDITIONAL USES; ACCESSORY USES; PROHIBITED USES**

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frontage lot whose rear yard abuts a collector or local street, a fence or wall may be constructed no closer than fifteen (15) feet to the rear property line.

- c) Side yard. A fence or wall may be constructed on the side property line, except that no fence shall be closer than fifteen (15) feet to any collector or local street right-of-way. In addition, no fence shall be permitted in any platted easement.
- d) Corner lot. A fence or wall not more than three (3) feet in height may project into or enclose any required front or side yard along the street frontage of the lot.

### **2) Design Standards.**

- a) All fences and walls shall be constructed with a finished side facing outward from the property. The posts and support beams shall be on the inside or shall be designed as an integral part of the finished surface.
- b) All fence segments abutting a designated thoroughfare, except on corner lots, shall provide one (1) gate opening per lot to allow access to the area between the fence and the edge of the street for maintenance and mowing.
- c) Spikes and Barbed Wire Fences. No person shall place or permit to be placed or remain on any fence or wall, within five (5) feet of any public street or sidewalk or less than six (6) feet above grade, any spikes or sharp pointed cresting, or any barbed wire, or other thing dangerous and liable to snag, tear, cut or otherwise injure anyone coming in contact therewith.
- d) Electric Fences. No person shall erect a fence containing uninsulated electric conductors that may be exposed to human contact.
- e) Swimming Pools. Private swimming pools having a water depth of two (2) feet or more shall be separated from the remainder of the yard by a protective fence or other permanent structure at least four (4) feet in height. The protective enclosure shall be maintained by locked gates or entrances when the pool is not tended by a qualified and responsible person.

### **17-109 ACCESSORY BUILDING OR STRUCTURE USE**

No accessory building or structure shall be constructed upon a lot until the construction of the main building or structure has been actually commenced. No accessory building or structure shall be used unless the main building or structure on the lot is also being used. No cellar or basement shall be used as a dwelling prior to substantial completion of the dwelling of which it is a part.

### **17-110 PROHIBITED USES**

After the effective date of these Regulations:

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

## **ARTICLE 17 SUPPLEMENTARY USE REGULATIONS; CONDITIONAL USES; ACCESSORY USES; PROHIBITED USES**

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2. No existing mobile home (i.e. “grandfathered”) shall be used for any purpose other than as a residential dwelling as permitted within these Regulations. At no time shall a manufactured home or mobile home be permitted to be converted to a storage unit, office or any other such use, except when permitted as an exception by the Board of Zoning Appeals as provided in Article 19 of these regulations.
3. No mobile home or manufactured home originally built to be a single-wide unit shall be attached or connected to any other mobile home or manufactured home, or to any other structure or building. This shall not prohibit reasonable, aesthetically designed stoops, porches, decks, carports or the like from being built onto or adjacent to an approved manufactured home.
4. No property shall be used as junkyard, sanitary landfill, construction/demolition landfill, industrial landfill, hazardous or toxic waste storage facility, or other similar use or activity, including as an accessory use to another principal use unless such use or activity has been approved by the issuance of a Conditional Use Permit as provided within these Regulations.
5. No property shall be used for the establishment of Alternative Energy Systems, as defined herein.

## ARTICLE 18 NONCONFORMING USES

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### SECTIONS:

#### 18-101 NONCONFORMING LOTS OF RECORD

#### 18-102 NONCONFORMING USE OF LAND

#### 18-103 NONCONFORMING USE OF STRUCTURES

#### 18-104 DISCONTINUANCE OF NONCONFORMING USES

#### 18-105 DESTRUCTION OF A NONCONFORMING USE

#### 18-106 INTERMITTENT USE

#### 18-107 EXISTENCE OF A NONCONFORMING USE

#### 18-108 AMORTIZATION OF NONCONFORMING USES

### 18-101 NONCONFORMING LOTS OF RECORD

#### 1. In Residential Districts.

- A. In any residential district, notwithstanding the regulations imposed by any other provision, a single-family detached dwelling which complies with the restrictions in Section 18-101-1.b., below, may be erected on a lot that is not less than 25 feet in width and that consists entirely of a tract of land that:
  - 1) Has less than the prescribed minimum lot area, width or depth, or all three, and,
  - 2) 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,
  - 3) 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 regulation or regulations.
- B. Construction permitted by Section 18-101-1.a., above, shall comply with all of the regulations (except lot area, width and depth) applicable to single-family dwellings in the zoning district in which the lot in question is located; provided, however, that the following side yard requirements shall apply in place of the side yard requirements otherwise applicable:
  - 1) The dwelling shall be placed on the lot so as to provide a yard on each side of the dwelling.
  - 2) The sum of the widths of the two side yards on each lot shall be not less than the smaller of:
    - a) Twenty-five percent of the width of the lot, or
    - b) The minimum total for both side yards prescribed by the bulk regulations for said zoning district, and,
    - c) No side yard shall be less than 10 percent of the width of the lot, and in no case less than 3 feet.

## ARTICLE 18 NONCONFORMING USES

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- C. In any residential district allowing a two-family dwelling, said two-family dwelling may be erected on a lot that is not less than 25 feet in width when the conditions specified in Section 18-101-1 (a) and (b) above are met.
- 2. In Districts Other Than Residential Districts.
  - A. In any district other than a residential district, notwithstanding the regulations imposed by any other provision of these Regulations, a building designed for any permitted use may be erected on a lot of the type described in Section 18-101-1.a., previously cited.
  - B. Construction permitted by Section 18-101-1.a., previously cited, shall comply with all the regulations (except lot area, width and depth) applicable in the zoning district in which the lot in question is located.

### 18-102 NONCONFORMING USE OF LAND

Where open land is being used as a nonconforming use at the time of the enactment of these Regulations, and such use is the principal use and not accessory to the main use conducted in a structure, such use may be continued provided such nonconforming use shall not be extended or enlarged, either on the same or adjoining property. The protection afforded to nonconforming use of land by this section applies only to such land held under ownership or lease agreement for said activity on or before the effective date of these Regulations, but shall not apply to new lands purchased or leased after said date. In addition, said protection afforded to nonconforming use of land shall not apply to activities not legal under any other laws.

### 18-103 NONCONFORMING USE OF STRUCTURES

Except as otherwise provided herein, the lawful use of a structure existing at the effective date of these Regulations may be continued although such use does not conform to the provisions hereof. Whenever a nonconforming use has been changed to a conforming use, such use shall not thereafter be changed to a nonconforming use. The nonconforming use of a structure may be hereafter extended throughout those parts of the structure which were lawfully and manifestly arranged or designed for such use at the time of the enactment of these Regulations.

### 18-104 DISCONTINUANCE OF NONCONFORMING USES

No land or structure or portion thereof used in whole or in part for a nonconforming use which remains idle or unused for a continuous period of one (1) year, whether or not the equipment, fixtures, improvements or facilities are removed, shall again be used except in conformity with the regulations of the district in which such land or structure is located.

### 18-105 DESTRUCTION OF A NONCONFORMING USE

No structure which has been damaged by any cause whatsoever to the extent of more than 50 percent of the fair market value of the structure, immediately prior to damage, shall be restored except in conformity with the provisions of these Regulations, and all rights as a nonconforming use are terminated. If a structure is damaged by less than 50 percent of the fair market value, it may be repaired or reconstructed and used as before the time of damage, provided, that such repairs or reconstruction be substantially completed within 12 months or the date of such damage.

## ARTICLE 18 NONCONFORMING USES

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### 18-106 INTERMITTENT USE

The casual, intermittent, temporary or illegal use of land or structures shall not be sufficient to establish the existence of a nonconforming use. The existence of a nonconforming use on the part of a lot or tract shall not be construed to establish a nonconforming use on the entire lot or tract.

### 18-107 EXISTENCE OF A NONCONFORMING USE

Whether a nonconforming use exists shall be a question of fact and shall be decided by the Zoning Administrator, subject to appeal to the Board of Zoning Appeals after public notice and hearing and in accordance with the rules of the Board and of these Regulations.

### 18-107 AMORTIZATION OF NONCONFORMING USES

1. **PURPOSE AND INTENT.** The purpose and intent of this section is to provide for the continuation and, within a suitable period of time, elimination of existing uses of property that do not conform to the requirements of these Regulations or that may not conform to future amendments thereto. The provisions herein are designed to accomplish this intent in a way that:
  - A. minimizes the nuisance, reduction in neighboring property values, and other adverse effects of properties that do not conform to their environs.
  - B. allows the property owner or lessee to recover all or a substantial part of his investment in the nonconformity, while also minimizing the time period during which, by virtue of the nonconformity, he or she enjoys a special right not available to other property owners in the same zoning district.
2. **APPLICATION.** A nonconformity is any characteristic of a building, structure, or lot or parcel of land, or of the use thereof, which was lawful prior to the date of enactment of these Regulations, or amendment thereto, and that does not conform to the requirements applicable to the zoning district in which it is located. The lawful issuance of a Building Permit prior to the dates specified above shall be considered to establish the lawfulness of any building or structure. There are two categories of nonconformity:
  - A. **Use Nonconformities:** A Use Nonconformity may apply to either a principal use or an accessory use. There are two categories of use nonconformity:
    - 1) **Activities Nonconformities:** Any activities or functions carried on at a premises that are not allowed by the permitted and conditional uses of the zoning district in which the premises is situated, irrespective of the use for which the premises was designed. (EXAMPLE: The use of a dwelling now located in a Residence District as the site of a previously legal business is an example of an Activity Nonconformity.)
    - 2) **Design Nonconformities:** The design or intended use of all or substantially all of a premises for any use not allowed by the permitted and conditional uses of the zoning district in which it is located, irrespective of the nature of the activities currently carried on at that premises. (EXAMPLE: A previously legal premises now located in a Residence District that was designed and intended as an automobile service station or an open sales lot, would be an example of a Design Nonconformity, even if no service station or sales business were currently operated on the premises.)

## ARTICLE 18 NONCONFORMING USES

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- B. Standards Nonconformities: All other nonconformities with the requirements of these Regulations are nonconformities of the standards, including nonconformities involving:

- 1) yards
- 2) building height
- 3) lot area or lot area per dwelling unit
- 4) lot width
- 5) floor area ratio
- 6) size of business
- 7) off-street parking and loading
- 8) signs
- 9) buffer planting strips
- 10) screening

(EXAMPLES: An undeveloped lot not meeting the minimum width required by its zoning district, or an otherwise conforming business with a sign that does not meet a requirement of the sign regulations, would be examples of Standards Nonconformities.)

3. RESTORATION OF DAMAGED STRUCTURES. See Article 18-105 herein.

4. ADDITIONS, ENLARGEMENTS, AND ALTERATIONS TO STRUCTURES.

- A. Activity or Design Nonconformity. No addition, enlargement, or structural alteration as defined herein shall be made to any structure having a Design or Activity Nonconformity without the elimination of all such nonconformity.
- B. Standards Nonconformity. No addition, enlargement, or structural alteration as defined herein shall be made to any structure having a Standards Nonconformity without both:
- 1) The conformance of any new addition or enlargement portion of the structure to all requirements of the zoning district
  - 2) The elimination in whole or in part, to the extent the Zoning Administrator determines physically and economically feasible, of Standards Nonconformities existing on the property before the addition or enlargement, particularly where such nonconformities can be reduced or eliminated without relocation of structures, acquisition of additional land, or expenditures disproportionate to the cost of the enlargement.

## ARTICLE 18 NONCONFORMING USES

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### 5. EXPANSION.

#### A. Within Structures

- 1) Activity or Design Nonconformity. Expansion of activities within a structure having an Activity or Design Nonconformity, or both, is permitted only under one of the following conditions:
  - a) The structure has a design nonconformity and the expansion involves no structural alteration as defined herein
  - b) The property is made conforming to all applicable provisions of these Regulations.
- 2) Standards Nonconformity. Expansion within a structure having a standards nonconformity is permitted conditioned upon the elimination in whole or in part, to the extent the Zoning Administrator determines physically and economically feasible, of standards nonconformities existing on the property before expansion, particularly where such nonconformities can be reduced or eliminated without relocation of structures, acquisition of additional land, or expenditures disproportionate to the cost of expansion.

- B. Expansion of Land Use. Expansion of the use of land having any nonconformity, whether involving a principal or accessory use, is permitted beyond the land area presently occupied only provided that the property is made conforming to all applicable provisions of these Regulations.

### 6. MOVING OF STRUCTURES. No structure with any nonconformity shall be moved in whole or in part to any other location on the same or any other lot unless in the new location it will conform to all regulations of the applicable zoning district.

### 7. AMORTIZATION.

- A. All nonconformities shall be removed or the uses altered to eliminate, as applicable, the nonconformity within the amortization periods specified herein.
- B. The amortization periods therein were determined based on:
  - 1) the degree of nuisance or other adverse effects each type of nonconformity creates;
  - 2) the size of the investment in the feature that creates the nonconformity and the relative ease and expense with which the nonconformity may be eliminated;
- C. The following types of nonconformities shall not be subject to the amortization provisions herein:
  - 1) Standards nonconformities as specified herein;
  - 2) Design nonconformities of dwelling units;



## ARTICLE 18 NONCONFORMING USES

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### 8. ADMINISTRATION.

- A. A Certificate of Non-Conformance and Amortization Schedule shall be required for the continuation of all nonconformities created by these Regulations or amendment thereto.
- B. When the Zoning Administrator determines that a property has any nonconformity, he or she shall notify the owner or lessee thereof, in writing, of such nonconformity and of the regulations applicable thereto.
- C. Following receipt of the notice, the owner or lessee shall file with the Zoning Administrator, within three months of the date thereof, either evidence that the property is not nonconforming or a completed application for a Certificate of Non-Conformance and Amortization Schedule.
- D. The application shall require the applicant to submit information as required by the Zoning Administrator to determine the applicable amortization period for the nonconformity. Upon timely receipt of a complete and accurate application therefore, the Zoning Administrator shall, within five (5) working days, issue a Certificate of Non-Conformance and Amortization Schedule for the nonconforming property.
- E. Failure to apply for a Certificate of Non-Conformance and Amortization Schedule within three (3) months of the notice provided for in this Section will require the amortization of the non-conformance within six (6) months of the notice provided for herein.
- F. Non-conforming uses that have obtained a Certificate of Non-Conformance and Amortization Schedule from the Zoning Administrator shall be discontinued within the amortization period specified herein for said use.

### 9. EXTENDED AMORTIZATION PERIODS.

- A. An owner or lessee of non-conforming land, a structure, a building or an adult regulated use may, within three (3) months of the notice provided for herein, apply for an Extended Amortization Schedule of up to two (2) additional years. The owner or lessee shall state on the application that it is for an Extended Amortization Period and shall set forth the reasons for pursuing the extended period.
- B. Upon receipt of a complete and accurate application for an Extended Amortization Schedule, the Board of Zoning Appeals shall schedule and hold a public hearing thereon not less than twenty (20) days nor more than forty-five (45) days thereafter. At least twenty (20) days in advance of the hearing, notice of the time and place of such hearing shall be published at the applicant's expense in the official newspaper of Osage County. In addition, notice of the hearing shall be mailed to affected property owners in the manner, and to the extent required for rezoning hearings as specified these Regulations.

ARTICLE 18 NONCONFORMING USES

10. STANDARDS FOR EXTENDED AMORTIZATION SCHEDULE. Approval and/or establishment of extended amortization periods and instructions for issuance of Extended Amortization Schedules based on applications therefore shall be granted by the Board of Zoning Appeals only in accordance with the standards herein. No Extended Amortization Schedule shall be approved or established unless the Zoning Board of Appeals shall find:

- A. The conditions upon which the application for the Extended Amortization Schedule are based are unique to the property for which the Extended Amortization Schedule is sought and are not applicable, generally, to other property within the same zoning classification.
- B. That the period of amortization of the non-conformance will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare.
- C. That the non-conformance during the period of amortization will be not injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the adjacent neighborhood.
- D. That the non-conformance during the period of amortization will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district.
- E. That adequate utilities, access roads, drainage, and/or other necessary facilities have been or are being provided.
- F. That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
- G. That the non-conformance will conform to all other applicable regulations of the district in which it is located except those specific requirements directly relating to the non-conformance status of the property.

11. AMORTIZATION PERIODS FOR NONCONFORMITIES.

Use with Nonconformity		Value	Amortization Period in Years	
			In Residential Districts	In Other Districts
A.	STRUCTURES & BUILDINGS			
	As Principal Use:			
	With Conforming Design & Nonconforming Activity	-0-	2.5	5
	With Nonconforming Design & Conforming or Nonconforming Activity	-0-	7.5	1
	As Accessory Use:	-0-	Same for Principal Use	

ARTICLE 18 NONCONFORMING USES

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B.	LAND			
	As Principal Use:			
	With No Structures	-0-	1	2
	With Only Accessory Structures:			
		\$6,000 or less*	1.5	3
		Over \$6,000*	2.5	5
	As Accessory Use:	-0-	Same for Principal Use	
	*Value refers to value of improvements only.			

Value is unequalized appraised valuation for property tax purposes on the date of passage of these Regulations, or the amendment that created the nonconformity, divided by the assessment ratio (expressed as a decimal).

All amortization periods start from the date of the notice from the Zoning Administrator to the property owner or lessee that a nonconformity exists.

## **ARTICLE 19 THE BOARD OF ZONING APPEALS**

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### **SECTIONS:**

#### **19-101 ORGANIZATION AND PROCEDURE**

#### **19-102 POWERS**

#### **19-103 VARIANCES**

#### **19-104 SPECIAL EXCEPTIONS**

#### **19-105 SPECIAL YARD AND HEIGHT EXCEPTIONS**

#### **19-106 GUIDELINES FOR CONDITIONS**

#### **19-107 APPLICATION**

#### **19-108 STAY OF PROCEEDINGS**

#### **19-109 PUBLIC HEARING**

#### **19-110 FINDINGS AND RECORDS OF PROCEEDINGS**

#### **19-111 LAPSE OF SPECIAL EXCEPTION**

#### **19-112 DECISIONS OF THE BOARD**

### **19-101 ORGANIZATION AND PROCEDURE**

The full membership of the Osage County Planning Commission, as established by the Governing Body, is hereby declared to be the Osage County Board of Zoning Appeals and, as such, shall function with its full membership as the Osage County Board of Zoning Appeals as referred to herein. In all instances within this Article and/or these Regulations where reference is made to the Board of Zoning Appeals, said board shall be the Osage County Planning Commission acting as the Osage County Board of Zoning Appeals.

The Board of Zoning Appeals shall administer the details of the application of these Regulations in accordance with the general rules set forth herein. The Board may adopt rules and regulations as it may deem necessary to effectuate the provisions of these Regulations.

### **19-102 POWERS**

The Board of Zoning Appeals shall have the following powers:

1. To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of these Regulations.
2. To hear and decide special exceptions to the terms of these Regulations upon which such Board is required to pass under these Regulations.
3. In accordance with the specific provisions of this Article, to authorize upon appeal of specific cases such variance from the terms of these Regulations as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of these Regulations would result in unnecessary hardship, and so that the spirit of these Regulations shall be observed and substantial justice done.

## ARTICLE 19 THE BOARD OF ZONING APPEALS

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### 19-103 VARIANCES

The Board of Zoning Appeals shall have the power to grant the following variances:

1. A variation in the yard requirements in any district to relieve practical difficulties or particular hardships in cases where, by reason of exceptional narrowness, shallowness or shape of a specific piece of property or by reason of exceptional topographical conditions or other extraordinary or exceptional situations or conditions of such piece of property, the strict application of each regulation or restriction of these Regulations would result in peculiar and exceptional practical difficulties to, or exceptional hardship upon the owner of such property. Such variance shall comply, as nearly as possible, in every respect with the spirit, intent and purpose of these Regulations. The purpose of this provision is to authorize the granting of variation only for reasons of demonstrable and exceptional hardship as distinguished from variations sought by applicants for purposes or reasons of convenience, profit, or caprice. Such variance shall be granted only when public safety and welfare are secured, and substantial justice done.

A request for a variance may be granted upon a finding by the Board of Zoning Appeals that ALL of the following conditions have been met:

- 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(s) or of the applicant;
- B. The granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents;
- C. The strict application of the provisions of the zoning regulations of which 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, and;
- E. That granting the variance desired will not be opposed to the general spirit and intent of these Regulations.

### 19-104 SPECIAL EXCEPTIONS

In order to provide for adjustment in the relative locations of uses and buildings of the same or different classifications, to promote the usefulness of these Regulations as an instrument for fact finding, interpretation, application, and adjustment, and to supply the necessary elasticity to its efficient operation, special exceptions are hereby permitted by the terms of this Article. The following buildings and uses are permitted as special exceptions if the Board of Zoning Appeals finds that in its opinion, as a matter of fact, such exceptions will not substantially affect adversely the uses of adjacent and neighboring property permitted by these Regulations:

1. A nonconforming commercial use to extend to the entire lot or a larger portion of the lot where there is now a commercial use on a portion of the lot.
2. A nonconforming commercial use on a lot between two lots which are used commercially.

## ARTICLE 19 THE BOARD OF ZONING APPEALS

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3. A nonconforming use now existing in any part of a building to be extended vertically or laterally to other portions of the building. In a building now occupied by a nonconforming commercial or industrial use, an additional use of the same classification in the remainder of the building.
4. The extension of an existing nonconforming building and the existing use thereof, upon the lot occupied by such building at the time of the passage of these Regulations; or the erection of an additional building upon the lot owned at the time of the passage of these Regulations by a nonconforming commercial or industrial establishment and which additional building is a part of such establishment.
5. Where a use district boundary line crosses a lot, a use of either classification on the whole lot within 100 feet of said district boundary line.
6. Off-street parking areas, adjacent to or at a reasonable distance from the premises on which parking areas are required by the parking regulations of these Regulations where practical difficulties, including the acquisition of property, or undue hardships are encountered in locating such parking areas on the premises and where the purpose of these Regulations to relieve congestion in the streets would be best served by permitting such parking off the premises.
7. The placement of a manufactured home or a mobile home on any property for use as an office, storage unit or other use different from its original design as a residence. This does not apply to the placement of “prefabricated structures” which are designed as portable offices, portable classrooms and the like.

### 19-105 SPECIAL YARD AND HEIGHT EXCEPTIONS

The following special yard exceptions, limited as to location and especially in locations described below in this section, are permitted by these Regulations if the Board of Zoning Appeals finds that in its opinion, as a matter of fact, such exception will not substantially affect adversely the uses of adjacent and neighboring property permitted by these Regulations and provided such exceptions are approved by the Board:

1. An exception in the yard regulations on a lot where, on the adjacent lot, there is a front, side or rear yard that does not conform with the yard regulations.
2. A yard exception on a corner lot, or lots opposite or adjoining permanent open spaces, including parks and playgrounds.
3. An exception in the depth of the rear yard on a platted lot in a block where there are nonconforming rear yard conditions.
4. An exception where there are irregularities in depths of existing front yards on a street frontage on the side of a street between two intersecting streets, so that any one of the existing depths shall, for a building hereafter constructed or extended, be the required minimum front yard depth.

## **ARTICLE 19 THE BOARD OF ZONING APPEALS**

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### **19-106 GUIDELINES FOR CONDITIONS**

Where, in these Regulations, special exceptions are permitted, provided they are approved by the Board of Zoning Appeals, where the Board is authorized to decide appeals or approve certain uses, and where the Board is authorized to approve variances, such approval, decision, or authorization shall be limited by such conditions as the case may require, including, if necessary, any of the following specifications:

1. No outside signs or advertising structures except professional or directional signs.
2. Limitations of signs as to size, type, color, location or illumination.
3. Amount, direction, and location of outdoor lighting.
4. Amount and location of off-street parking and loading space.
5. Maintenance requirements including cleaning and painting of buildings, structures or facilities.
6. Type of roof (i.e., gable, flat, etc.).
7. Construction design and type of construction materials to be used.
8. Whether the buildings, if multiple buildings are proposed, can be connected or not.
9. Exit, entrance, door and window locations.
10. The type and amount of paving, landscaping, fencing, screening and other such features.
11. Hours of operation, including limitations on nighttime hours.
12. Limitations on structural alterations to existing buildings.
13. Plans for the control or elimination of smoke, dust, gas, noise or vibration caused by the proposed use.
14. Such other conditions and/or limitations that are deemed necessary.

### **19-107 WRITTEN APPLICATION REQUIRED**

Written application for an appeal, a special exception, or a variance referred to in this Article shall be filed with the Board or its agent, upon forms and in a manner prescribed by the Board. Said application shall be submitted within 19 days of the action requiring said appeal, variance or special exception.

### **19-108 STAY OF PROCEEDINGS**

Upon the application for an appeal of an order, requirement, decision, or determination made by an administrative official in the enforcement of these Regulations, said appeal shall stay all legal proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies to the Board, after the application for appeal has been filed with him, that by reason of facts stated in the certificate the stay would, in his opinion, cause imminent peril to life or property. In such case the proceedings shall not be stayed except by a restraining order which may be granted by the Board, or by a court of competent jurisdiction on application, on notice to the Zoning Administrator and on due cause shown.

## **ARTICLE 19 THE BOARD OF ZONING APPEALS**

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### **19-109 PUBLIC HEARING REQUIRED**

The Board shall hold a public hearing on each application for an appeal, decision, variance or special exception. Applications for a variance or special exception must be accompanied with a certified list of property owners, and their addresses, within the same area specified in Article 22 herein for a hearing on a rezoning or a Conditional Use. Notice of the time and place of the public hearing shall be published once in the official County paper not less than 20 days prior to the date of such public hearing. In addition, all property owners within the notification area shall be notified by first class mail of such public hearing and be given an opportunity to attend and be heard regarding such application for a variance or special exception.

### **19-110 FINDINGS AND RECORDS OF PROCEEDINGS**

The Board of Zoning Appeals shall hold the public hearing at such prescribed time and place and shall make its findings and determinations in writing within a reasonable time from the date of filing of the application, and shall forthwith transmit a copy thereof to the applicant. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, and shall keep records of its examinations and other official actions, which shall be a public record.

### **19-111 LAPSE OF SPECIAL EXCEPTIONS OR VARIANCES**

After the Board of Zoning Appeals has approved a special exception or granted a variance, the special exception or variance so approved or granted shall lapse after the expiration of one year if no substantial construction or change of use has taken place in accordance with the plans for which such special exception or variance was granted, and the provisions of these Regulations shall thereafter govern.

### **19-112 DECISIONS OF THE BOARD**

In exercising the foregoing powers, the Board of Zoning Appeals, in conformity with the provisions of this Article, 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 permit. Any person, official or governmental agency dissatisfied with any order or determination of the Board of Zoning Appeals may bring an action in the District Court of Osage County, Kansas, to determine the reasonableness of any such order or determination.



## **ARTICLE 20 ADMINISTRATION**

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### **SECTIONS:**

#### **20-101 ENFORCEMENT**

#### **20-102 ZONING CERTIFICATE**

#### **20-103 APPLICATION FOR ZONING CERTIFICATE**

#### **20-104 FEES**

#### **20-105 ISSUANCE OF ZONING CERTIFICATE**

#### **20-106 REVOCATION OF ZONING CERTIFICATE**

#### **20-107 STOP ORDER**

#### **20-108 PERIOD OF VALIDITY**

#### **20-109 CERTIFICATE OF OCCUPANCY**

#### **20-110 REPORTS**

#### **20-111 ADMINISTRATIVE PERMIT**

### **20-101 ENFORCEMENT**

It shall be the duty of the Zoning Administrator to enforce the provisions of these Regulations and to refuse to issue any zoning certificate for any building, or for the use of any premises, which would violate any of the provisions of these Regulations. It shall also be the duty of all officers and employees of Osage County, Kansas, to assist the Zoning Administrator by reporting any seeming violation in new construction, reconstruction or land use. In case any building is erected, constructed, reconstructed, moved, altered, repaired or converted or any building or land is used in violation of these Regulations, the Zoning Administrator is hereby authorized and directed to institute any appropriate action to put an end to such violation.

### **20-102 ZONING CERTIFICATE**

No building, 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 other purpose; and no use of any land or structure shall be changed to any other use, unless a zoning certificate shall first be applied for and a Certificate of Occupancy is obtained from the Zoning Administrator certifying that the proposed use or occupancy complies with all the provisions of these Regulations.

### **20-103 APPLICATION FOR ZONING CERTIFICATE**

The application for a zoning certificate shall be made on forms provided by the Zoning Administrator and shall be accompanied by a site plan of the real estate upon which said application is made. Said site plan shall be drawn to scale showing the following items:

1. Legal description of the real estate involved.
2. Location and size of all buildings, structures, yards and open space.
3. Width and length of all entrances and exits to and from said real estate.
4. All adjacent and adjoining roads or highways.

## **ARTICLE 20 ADMINISTRATION**

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5. Sufficient grades and elevations to establish the proper placement of buildings, adequate sewage disposal systems, the proper drainage of the property, and the applicability of possible floodplains.
6. Location and specifications of all signs, lighting, fencing, screening, landscaping and other such site improvements.

Site plans so furnished shall be filed by the Zoning Administrator and shall become a permanent record. A record of all zoning certificate applications shall be kept on file in the Office of the Zoning Administrator.

### **20-104 FEES**

An application for a zoning certificate shall be accompanied by such fee as shall be officially specified by resolution of the Governing Body from time to time.

### **20-105 ISSUANCE OF ZONING CERTIFICATE**

A zoning certificate shall be either issued or refused by the Zoning Administrator within 10 working days after the receipt of the application for said zoning certificate, or within such further period as may be agreed to by the applicant. When the Zoning Administrator refuses to issue a zoning certificate, the applicant shall be advised of the reasons for the refusal in writing.

### **20-106 REVOCATION OF ZONING CERTIFICATE**

A zoning certificate issued in accordance with the provisions of these Regulations may be revoked by the Zoning Administrator if he finds that prior to the completion of the structure for which the zoning certificate was issued there is a departure from the approved plans, specifications and/or requirements or conditions required under the terms of the zoning certificate, or the same was issued under false representation, or that any other provisions of these Regulations are being violated.

### **20-107 STOP ORDER**

Failure, refusal or neglect of any property owner, or his authorized representative, to apply for and secure a valid zoning certificate, including the payment of the prescribed fee, shall be reason for the issuance of a "stop order" by the Zoning Administrator; provided said owner or authorized representative shall have been notified in writing at least 48 hours prior to the issuance of said stop order that he is in violation of regulations of the County. Said stop order shall be posted on or near the property in question, in a conspicuous place and no further construction shall proceed. Where such construction has proceeded without filing for and receiving a valid permit, the fee for the issuance of a subsequent zoning certificate shall be quadrupled.

### **20-108 PERIOD OF VALIDITY**

A zoning certificate shall become null and void ninety (90) days after the date on which it is issued unless within such ninety (90) day period construction, building, moving, remodeling or reconstruction of a structure is commenced or a Certificate of Occupancy is issued. A zoning certificate shall expire upon issuance of a Certificate of Occupancy as specified herein, or within one (1) year from the date of issuance of the zoning certificate, regardless of the state of completion of the construction authorized by said zoning certificate. Any construction not completed when a zoning certificate expires shall cease and no new construction may commence until such time as a newly issued zoning certificate is issued in conformance with this Article and these Regulations.

## **ARTICLE 20 ADMINISTRATION**

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### **20-109 CERTIFICATE OF OCCUPANCY**

No new or existing building or structure shall be occupied or used, and no change in the character or use of land or of a building shall occur, until a Certificate of Occupancy has been issued by the Zoning Administrator certifying that such building or use complies with all requirements of these Regulations and other applicable city rules and regulations.

### **20-110 REPORTS**

The Zoning Administrator shall periodically report in writing to the Governing Body and Planning Commission a summary of all zoning certificates and Certificates of Occupancy issued during the preceding period, giving details of any permitted variations, as well as the current status of all applications in process for amendments, conditional uses, appeals, and variances. Such report shall include comments on any problems encountered in the administration of these Regulations which may need correction by amendment to these Regulations.

### **20-111 ADMINISTRATIVE PERMIT**

A manufactured home on an individual lot may be authorized by the Zoning Administrator by issuance of an Administrative Permit on an emergency basis for a period not to exceed six (6) months, on any lot where the permanent dwelling unit has been destroyed by fire, storm or other such calamity and the dwelling unit has been rendered uninhabitable. If the authorization for the emergency placement of such mobile home unit lasts longer than six (6) months, a Special Exception may be granted by the Board of Zoning Appeals for an additional period of time, provided, the procedures for approval of Special Exceptions outlined in Article 19 herein are followed.

## ARTICLE 21 SPECIAL EVENTS

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### SECTIONS:

#### **21-101 PURPOSE AND INTENT**

#### **21-102 SPECIAL EVENT DEFINED**

#### **21-103 SPECIAL EVENTS NOT REQUIRING A PERMIT**

#### **21-104 SPECIAL EVENTS SUBJECT TO AN ADMINISTRATIVE PERMIT**

#### **21-105 SPECIAL EVENTS SUBJECT TO GOVERNING BODY APPROVAL**

#### **21-106 APPLICATION AND FEE**

#### **21-101 PURPOSE AND INTENT**

The purpose and intent of this Article is to provide for the use of land for special events, often for a temporary time, in a manner consistent with its normal use and beneficial to the general welfare of the public. Furthermore, it is the intent of this Article to protect nearby property owners, residents and businesses from special events which may be disruptive, obnoxious, unsafe or inappropriate given site conditions, traffic patterns, land use characteristics, and the nature of the proposed use, including the proposed size and intensity of the event. Finally, it is the intent of this Article to preserve the public health, safety and convenience.

In addition, all other adopted policies, procedures, rules and regulations of Osage County shall apply to all special events and special event applications, including submittal requirements and/or any other documentation required thereby.

#### **21-102 SPECIAL EVENT DEFINED**

The term “special event” shall mean a temporary, short-term use of land or structures, not otherwise included as a permitted or accessory use by these Regulations, for one or more of the following types of activities; provided, however, Type 6 uses will be considered a Special Event, but of a permanent nature:

1. Type 1: Fund-raising or non-commercial events for nonprofit religious, educational, or community service organizations; including any on-site signs and structures in conjunction with the event.
2. Type 2: Temporary banners attached to the wall of a building or placed across street rights-of-way.
3. Type 3: Promotional activities or devices intended to attract attention to a specific place, business, organization, event or district, such as signs, searchlights or balloons.
4. Type 4: Commercial activities intended to sell, lease, rent or promote specific merchandise, services or product lines, such as a tent sale, trade show, farmers market, Christmas tree sales, or product demonstration. This type includes special activities such as film productions outdoor play productions and similar type of events.
5. Type 5: Public or private events intended primarily for entertainment or amusement, such as concerts, festivals, carnivals, circuses or parades, or as temporary “one-time” activities of a generally short duration, particularly such activities as “locational” work by film companies.

## ARTICLE 21 SPECIAL EVENTS

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Additionally, the temporary placement of a portable asphalt plant and attendant materials and equipment during construction work on any public road when such placement is not adjacent to said construction but will be placed within 1 and  $\frac{1}{4}$  miles of said construction may be allowed under this provision.

6. Type 6: Establishment of a private family burial plot, as defined in these Regulations.

The term “special event” shall not include garage sales at an individual residence, transient merchants, or off-site promotional signs.

### 21-103 SPECIAL EVENTS NOT REQUIRING A PERMIT

Special events meeting the Type 1 definition are allowed with a no fee Special Event Permit, provided all of the following performance standards are met:

1. The special event is conducted entirely on private property owned or leased by the sponsoring organization as a permanent facility.
2. Any non-existing, temporary structure used in conjunction with the special event shall meet all applicable yard setbacks, shall be the subject of a valid building permit, and shall be promptly removed upon cessation of the event.
3. The special event shall be restricted to hours of operation between 6:00 a.m. and 10:00 p.m., to a maximum duration of four (4) days, and to a maximum frequency for similar events of two (2) times per calendar year.

### 21-104 SPECIAL EVENTS SUBJECT TO AN ADMINISTRATIVE PERMIT

Special events meeting the following standards may be issued a Special Event Permit administratively by the Zoning Administrator. In administering the provisions of this section, the Zoning Administrator shall be guided by applicable County policies as adopted by the Governing Body. Any applicant denied a Special Event Permit shall be notified in writing of the reasons for the denial and of the opportunity to appeal the denial to the Governing Body.

1. Special events meeting the Type 2 definition may be permitted administratively by the Zoning Administrator, providing that all of the following performance standards are met:
  - A. An application is made and a fee paid in accordance with Section 21-106.
  - B. No more than one banner will be displayed when attached to the wall of a building.
  - C. The size and design of the banners will be appropriate given the size of the building to which they are attached and the character of the surrounding neighborhood.
  - D. The banner will be displayed for a maximum duration of fifteen (15) days per permit.
2. Special events meeting the Type 3 or Type 4 definition, and Type 1 events not meeting the standards of Section 21-103, may be permitted administratively by the Zoning Administrator subject to the prior review and approval of special arrangements for traffic and crowd control by the County Sheriff, Emergency Manager and the Director of EMS. No such administrative permit shall be issued unless all of the following performance standards are met:

## ARTICLE 21 SPECIAL EVENTS

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- A. An application at least thirty (30) calendar days before the first date of the event and a fee paid in accordance with Section 21-106.
  - B. The special event will not cause undue traffic congestion or accident potential given anticipated attendance and the design of adjacent streets, intersections and traffic controls.
  - C. The activity shall not cause the overcrowding of parking facilities given anticipated attendance and the possible reduction in the number of available spaces caused by the event itself.
  - D. The special event shall not endanger the public health, safety, or welfare given the nature of the activity, its location on the site, and its relationship to parking and access points.
  - E. The special event shall not impair the usefulness, enjoyment or value of adjacent property due to the generation of excessive noise, smoke, odor, glare, litter or visual pollution.
  - F. Any structure used in conjunction with the special event shall meet all sight distance requirements, shall be the subject of a valid building permit, and shall be promptly removed upon the cessation of the event.
  - G. The special event shall be conducted on private property in a commercial or industrial zoning district, except that nonprofit organizations may conduct events on any property where the property owner has granted the appropriate permission.
  - H. The duration and hours of operation of the special event shall be consistent with the intent of the event and the surrounding land uses, but in no case shall the duration exceed ten (10) days.
3. Special events meeting the Type 6 definition may be permitted administratively by the Zoning Administrator, subject to the following conditions and requirements to protect the public health, safety and welfare:
- A. The landowner must provide a survey, prepared by a licensed Kansas surveyor, providing sufficient detail to identify the location on the property of the burial plot. Said survey shall be recorded with the Osage County Register of Deeds office so that the location of the burial plot shall be known and identified on all deeds associated with the property in the future. In addition, a covenant running with the land, shall be recorded indicating the presence of a family burial plot and which prohibits the sale of said plot.
  - B. The landowner must provide the official documentation required by State law is being processed and filed with the Department of Vital Statistics; and/or any other recording requirements of law.
  - C. The burial plot shall be located such that it does not interfere with any other needed or required improvements on the property, such as water wells, onsite wastewater treatment systems, driveways, or any other onsite amenities.
  - D. Any and other such conditions and restrictions as may be determined to be in the public interest.

## **ARTICLE 21 SPECIAL EVENTS**

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### **21-105 SPECIAL EVENTS SUBJECT TO GOVERNING BODY APPROVAL**

Any Type 5 special event or special event not meeting the criteria of Sections 21-103 or 21-104 may be granted a Special Event Permit by the Governing Body. Such permit may be subject to such conditions and safeguards as the Governing Body may deem necessary to protect the public health, safety and welfare. These conditions may include, but shall not be limited to:

1. Restrictions on the hours of operation, duration of the event, size of the activity, or other operational characteristic.
2. The posting of a performance bond to help ensure that the operation of the event and the subsequent restoration of the site are conducted according to Governing Body expectations.
3. The provision of traffic control or security personnel to increase the public safety and convenience.
4. Obtaining liability and personal injury insurance in such form and amount as the Governing Body may find necessary to protect the safety and general welfare of the community.

The Governing Body may also hear and consider appeals of any denial of a Special Event Permit considered administratively and, may authorize such event, with or without additional requirements, or may uphold the denial of said application.

### **21-106 APPLICATION AND FEE**

1. No Special Event Permit shall be issued until an application has been submitted to the Zoning Administrator and the appropriate fee paid. The application shall be made on forms provided by the Zoning Administrator, and shall be accompanied by the following items as applicable:
  - A. A letter from the applicant describing the proposed event, the hours of operation, the duration of the event, anticipated attendance, and any structures, signs or attention-attracting devices used in conjunction with the event.
  - B. A sketch plan showing the location of the proposed activities, structures and signs in relation to existing buildings, parking areas, streets and property lines.
  - C. A letter from the property owner or manager, if different from the applicant, agreeing to the special event.
2. Each application for a Special Event Permit shall be accompanied by an application fee. The fee shall be as established by the Governing Body by separate ordinance.
3. The Special Event Permit shall be posted on the site for the duration of the event.



## ARTICLE 22 AMENDMENTS

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### SECTIONS:

#### **22-101 WHO MAY PETITION OR APPLY**

#### **22-102 PROCEDURES FOR CONSIDERATION OF REQUEST FOR AMENDMENTS, REVISIONS OR CHANGES**

#### **22-103 REFERRAL OF AMENDMENTS TO CITIES**

#### **22-104 POSTING OF SIGN**

#### **22-105 TRAFFIC AND/OR OTHER STUDIES**

#### **22-106 FACTORS TO BE CONSIDERED**

#### **22-107 LIMITATIONS ON REAPPLICATION FOR AMENDMENTS**

#### **22-101 WHO MAY PETITION OR APPLY**

Applications for amendments, revisions or changes in the Zoning District Boundary Map in effect for Osage County, Kansas, or for a Conditional Use Permit, may be made by any person who owns the land for which such an amendment, revision, change or conditional use permit is sought, or by the owner's agent as defined by these Regulations. If such application is made by the owner's agent, said agent shall enter upon the application the name and current mailing address of the owner and shall submit written authorization to act as agent for said owner prior to any public hearing.

Recommendations for amendments, revisions or changes to the Zoning Code or the Zoning District Boundary Map may also be made by the Osage County Planning Commission upon its own motion, for final determination by the Governing Body; likewise the Governing Body may amend the Zoning Regulations or the Zoning District Boundary Map upon its own motion; provided, however, such proposed amendments shall first be submitted to the Osage County Planning Commission for recommendation and report as provided herein.

#### **22-102 PROCEDURES FOR AMENDMENTS, REVISIONS OR CHANGES**

All applications or requests for amendments, revisions or changes to the Zoning Regulations or the Zoning District Boundary Map or for a Conditional Use Permit shall be made to the Zoning Administrator on such forms as provided and acceptable to the Zoning Administrator and the payment of the application fee established by the Governing Body. Immediately upon receipt of an application for rezoning or conditional use by the owner of a particular tract of land, or his agent, and the payment of the appropriate fee, the Zoning Administrator shall note thereon the date of filing and make a permanent record thereof. All such applications shall be set down for hearing not later than 60 days after receipt of a completed application. Notice of such hearing shall be published once in the official County newspaper at least 20 days prior to the date set for said hearing and a hearing shall be granted to any person at the time and place specified in such notice.

If the proposed change is not a general revision of the existing regulations but affects specific property, then in addition to the publication notice, notice of such proposed hearing shall be mailed to all the owners of land located within 1,000 feet of the area proposed to be altered at least twenty (20) days prior to the hearing, thus providing an opportunity to all interested parties to be heard. If the proposed amendment is for property adjacent to the city limits or is located outside the city's limits but within 1,000 feet of the city limits, the area of notification shall extend no more than 200 feet into such city. Such notice shall be given by regular first class mail, and shall be in the form of a letter explaining the proposed change. Such mailed notices shall be addressed to the owners of land mentioned above and not to occupants of such lands.



## ARTICLE 22 AMENDMENTS

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The applicant shall provide a certified list of the owners of said lands at the time of the filing of the application. The applicant shall furnish proof that he is the owner, the owner's agent, or has an option to buy the land described in the application, in which case the present owner must consent in writing to the application prior to the public hearing.

In the case of an application to amend, revise or change the Zoning Code, whether by the Osage County Planning Commission or the Governing Body, all the above stated requirements shall be followed except:

1. No fee shall be required since the request is from the Osage County Planning Commission or the Governing Body.
2. Notice of the public hearing is not required to be mailed to anyone; therefore, a certified list of the owners of land shall not be required.

For action on zoning amendments by the Osage County Planning Commission, the Bylaws of the Osage County Planning Commission shall govern said actions with respect to quorums, voting procedures, hearing procedures, and the like. The Osage County Planning Commission shall submit its first recommendation, in whatever form, no later than 3 months after the first public hearing, unless an extension of time is agreed to by the applicant.

Actions of the Governing Body on recommendations submitted to it by the Osage County Planning Commission shall be taken in conformance with the provisions of K.S.A. 12-757, and amendments thereto. This shall include actions subject to protest petitions.

If the zoning amendment shall affect the boundaries of any zone or district, the ordinance of the Governing Body shall define the change or the boundary as amended, shall order the official map to be changed to reflect such amendment and shall reincorporate such map as amended.

### **22-103 REFERRAL OF AMENDMENTS TO CITIES**

In order to protect the area around all incorporated cities within Osage County from untimely, premature, or inappropriate development, all proposed changes in a zoning district (rezonings) or requests for a Conditional Use Permit for all property within the designated notification area of all cities within Osage County shall be submitted to said city for official review and recommendation. The notification area for each city shall be mutually agreed upon by said city and Osage County before this provision shall be effective. Such area shall not exceed that area a city would be able to include within its Zoning Regulations as outlined in K.S.A. 12-715b, and amendments thereto. The notification area may be revised by mutual agreement at any time.

The Zoning Administrator shall submit the application, along with all supporting documentation and any development plans, to the appropriate city once the application has been determined to be complete. The application shall not be set for public hearing by the Osage County Planning Commission until the expiration of the review and comment period provided herein for said city; however, the required notices may be published to set the public hearing as soon after the expiration of the 30-day review and comment period as is practical.

## ARTICLE 22 AMENDMENTS

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Said city shall review such proposed rezoning or Conditional Use request and, within 30 days of receipt thereof, may submit a written recommendation regarding said application to the Osage County Planning Commission; or may appear before the Osage County Planning Commission and present its recommendation in person; or may elect to make no comments regarding said request. Any recommendation submitted may be from either the Planning Commission or the Governing Body of that city, whichever said city so chooses.

Notwithstanding any other provision of these Regulations or of state law; and in addition to all other rights granted to the applicant and to adjoining landowners; in the event a city recommends that a rezoning or Conditional Use proposed within said notification area be denied; then a resolution of approval of such request shall not be passed except by three-fourths majority vote of the Board of County Commissioners.

### **22-104 POSTING OF SIGN**

Each applicant for a rezoning and each applicant for a Conditional Use Permit shall, within 48 hours of filing such application, place a sign upon the lot, tract or parcel of land for which the application was filed. Said sign shall be furnished by the Zoning Administrator to the applicant and the applicant shall firmly affix and attach the sign to a wood or metal backing or frame and place the sign as hereinafter set forth.

Every effort shall be made by the applicant to maintain and kept the sign in place until final disposition of such application, or until withdrawal of the application. The sign shall be removed by the applicant after final action on the application.

The bottom of said sign shall be a minimum of two (2) feet above the ground line. Said sign shall be placed within five (5) feet of the street right-of-way line, in a position on such lot, tract or parcel of land as to have no visual obstructions thereto and to be readily seen by passersby. If the lot, tract or parcel of land has more than one (1) road frontage abutting thereto, signs shall be placed facing both roads.

Failure to comply with this requirement shall not deprive the Osage County Planning Commission of its jurisdiction or affect any decision, but may be due cause for the Osage County Planning Commission to refuse to hear the application or to adjourn the hearing or to require further notice. Any such hearing may, for good cause at the request of the applicant, or in the discretion of the Osage County Planning Commission, be continued.

### **22-105 TRAFFIC AND/OR OTHER STUDIES**

In the case of an application for rezoning of land or for a Conditional Use Permit for a use which may, in the opinion of the Osage County Planning Commission or Governing Body, substantially change traffic patterns, create traffic congestion, and/or have a perceived impact on the community of such magnitude warranting special study, either the Osage County Planning Commission or Governing Body may require that the applicant procure the services of a competent professional consultant or expert for the purpose of preparing such traffic and/or other studies deemed necessary.

A traffic study must address how the traffic generated by the proposed development will be handled on the site; how vehicular ingress and egress from the site onto public roads will function; and, show that no undue burden will be placed upon the existing public road system. The study shall include recommendations of the on-site and off-site improvements necessary to achieve appropriate levels of traffic safety.

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The other studies shall address the substance of the concern and/or impacts and shall identify the extent of such impacts and any and all mitigation remedies possible to lessen those impacts on the neighborhood and/or citizens and taxpayers of Osage County, Kansas.

The results of the traffic study and/or other studies shall be used in determining the impact of the proposed rezoning or conditional use permit and guide the development of a recommendation or decision regarding the same, including requirements of construction and/or installation of the recommended improvements outlined with the traffic study or such other studies.

### **22-106 FACTORS TO BE CONSIDERED**

1. When a proposed amendment would result in a change of the zoning classification of any specific property, the recommendation of the Osage County Planning Commission, accompanied by a copy of the record of the hearing, shall contain statements as to the present classification, the classification under the proposed amendment, the reasons for seeking such reclassification, a summary of the facts presented, and a statement of the factors upon which the recommendation of the Osage County Planning Commission is based using the following guidelines:
  - A. Whether the change in classification would be consistent with the intent and purpose of these Regulations;
  - B. The character and condition of the surrounding neighborhood and its effect on the proposed change;
  - C. Whether the proposed amendment is made necessary because of changed or changing conditions in the area affected, and, if so, the nature of such changed or changing conditions;
  - D. The current zoning and uses of nearby properties, and the effect on existing nearby land uses upon such a change in classification;
  - E. Whether every use that would be permitted on the property as reclassified would be compatible with the uses permitted on other property in the immediate vicinity;
  - F. The suitability of the applicant's property for the uses to which it has been restricted;
  - G. The length of time the subject property has remained vacant or undeveloped as zoned;
  - H. Whether adequate sewer and water facilities, and all other needed public services including transportation, exist or can be provided to serve the uses that would be permitted on the property if it were reclassified;
  - I. The general amount of vacant land that currently has the same zoning classification proposed for the subject property, particularly in the vicinity of the subject property, and any special circumstances that make a substantial part of such vacant land available or not available for development;
  - J. The recommendations of permanent or professional staff;
  - K. Whether the proposed amendment would be in conformance to and further enhance the implementation of the Comprehensive Plan;

- L. Whether the relative gain to the public health, safety, and general welfare outweighs the hardship imposed upon the applicant by not upgrading the value of the property by such a reclassification; and,
  - M. Such other factors as may be relevant from the facts and evidence presented in the application.
2. Because of particular conditions associated with their activities, certain uses which might have an adverse effect upon nearby properties or upon the character and future development of a district are not permitted outright in districts, but are permitted as Conditional Uses when their proposed location is supplemented by additional requirements so as to make the use requested compatible with the surrounding property, the neighborhood and the zoning jurisdiction.

In approving a Conditional Use, the minimum requirements of approval for all similar types of permitted uses in the same district must be met unless otherwise reduced by specific reference in the recommendation of the Osage County Planning Commission or the approval of the Governing Body. The requirements may be made more stringent if there is potentially injurious effects which may be anticipated upon other property and the neighborhood or contrary to the welfare and convenience of the public.

The Osage County Planning Commission may recommend approval of a Conditional Use, and the Governing Body may approve such Conditional Use, using the following factors as guidelines:

- A. Whether approval of the Conditional Use would be consistent with the intent and purpose of these Regulations;
- B. Whether the location of the proposed use is compatible to other land uses in the surrounding neighborhood;
- C. Whether the proposed use places an undue burden on the existing transportation and service facilities in the area affected and, if so, whether such additional transportation and service facilities can be provided;
- D. Whether the proposed use is made necessary or desirable because of changed or changing conditions in the area affected;
- E. The length of time the subject property has remained vacant or undeveloped as zoned;
- F. Whether the applicant's property is suitable for the proposed use;
- G. The recommendations of permanent or professional staff;
- H. Whether the proposed Conditional Use would be in conformance to and further enhance the implementation of the Comprehensive Plan;
- I. Whether the relative gain to the public health, safety, and general welfare outweighs the hardship imposed on the applicant by not upgrading the value of the property by approving the proposed Conditional Use; and,

## ARTICLE 22 AMENDMENTS

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- J. Whether the proposed Conditional Use, if it complies with all the conditions upon which the approval is made contingent (as authorized in Article 27 of these Regulations), will not adversely affect the property in the area affected.
- K. Such other factors as may be relevant from the facts and evidence presented in the application.

### **22-107 LIMITATIONS ON REAPPLICATION FOR AMENDMENTS**

Whenever an application for amendment, supplement, change, rezoning or conditional use permit has been denied by the Governing Body or withdrawn after newspaper publication notice for public hearing, such application or one substantially similar shall not be reconsidered sooner than one (1) year after said denial or from the date the application was withdrawn. The Governing Body may waive the limitation for good cause if there is a substantial change in the application as proposed. All requests for waiver of the limitation shall be made in writing, stating the basis for the request and the change that is felt to warrant such waiver, at least fourteen (14) days prior to the meeting of the Governing Body at which such request is to be heard. If the request is granted, then the application shall begin again as a new request and meet all requirements of these Regulations for hearing.

## **ARTICLE 23 INTERPRETATION, CONFLICT, REMEDIES AND PENALTY**

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### **SECTIONS:**

#### **23-101 INTERPRETATION AND CONFLICT**

#### **23-102 REMEDIES AVAILABLE**

#### **23-103 PENALTY**

#### **23-101 INTERPRETATION AND CONFLICT**

In interpreting and applying the provisions of these Regulations, they shall be held to be the minimum requirements for the promotion of the public health, safety, convenience, comfort, prosperity, or general welfare. It is not intended by these Regulations to interfere with, or abrogate or annul any easements, covenants or other agreement between parties; provided, however, that where these Regulations impose a greater restriction upon the use of buildings or premises or upon height of buildings, or requires larger open spaces than are imposed or required by other rules, regulations, or by easements, covenants, or agreements, the provisions of these Regulations shall govern. If any property is not given a zoning classification on the Zoning District Boundary Map because of error or omission, such property shall be classified "AG" Agricultural in the unincorporated portion of Osage County until changed by amendment, unless authorized by these Regulations.

#### **23-102 REMEDIES AVAILABLE**

In case any building or structure is or is proposed to be erected, constructed, reconstructed, moved, altered, converted, or maintained, or any building, structure, or land is or is proposed to be used in violation of these Regulations, the Zoning Administrator, County Attorney, or other appropriate authority of Osage County, Kansas, may, in addition to all other remedies, institute injunction, mandamus, or other appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, relocation, alteration, conversion, maintenance, or use, or to correct or abate such violation, or to prevent the occupancy of a building, structure or land.

#### **23-103 PENALTY**

Any person or corporation who shall violate any of the provisions of these Regulations or fail to comply herewith, or with any of the requirements thereof; or who shall build or alter any building in violation of any detailed statement or plan submitted and approved hereunder shall be guilty of a misdemeanor and, upon conviction thereof, shall be liable to a fine of not more than five hundred dollars (\$500.00) and each day such violation shall be permitted to exist shall constitute a separate offense. The owner of any building or premises or part thereof, where anything in violation of these Regulations shall be placed, or shall exist, and any architect, builder, contractor, agent, person, or corporation employed in connection therewith, and who assisted in the commission of any such violation, shall be guilty of a separate offense and upon conviction thereof shall be subject to the same fine as hereinbefore provided.

## ARTICLE 24 MISCELLANEOUS

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### SECTIONS:

#### 24-101 VALIDITY

#### 24-102 ACCRUED RIGHTS AND LIABILITIES SAVED

#### 24-103 SEVERABILITY

#### 24-104 EFFECTIVE DATE

#### 24-105 REPEALING CLAUSE

#### 24-101 VALIDITY

If any section, paragraph, subdivision, clause, phrase, or provision of these Regulations shall be adjudged invalid or held unconstitutional the same shall not effect the validity of these Regulations as a whole or any part or provision thereof, other than the part so decided to be invalid or unconstitutional. All regulations or parts of regulations in conflict herewith are hereby repealed.

#### 24-102 ACCRUED RIGHTS AND LIABILITIES SAVED

The repeal of the existing Zoning Regulations provided in Section 24-105 herein shall not affect any rights accrued, fines, penalties, forfeitures, or liabilities incurred thereunder, or actions involving any of the provisions of said Regulations or parts thereof. Said Regulations below repealed are hereby continued in force and effect, after the passage, approval and publication of these Regulations, for the purpose of such rights, fines, penalties, forfeitures, liabilities and actions thereof.

#### 24-103 SEVERABILITY

Each article, section and subdivision or a section of these Regulations is hereby declared to be independent of every other article, section, or subdivision or section, so far as inducement for the passage of these Regulations is concerned.

#### 24-104 EFFECTIVE DATE

These Regulations, being designated as the “Zoning Regulations of Osage County, Kansas,” shall be in full force and effect from and after its passage and publication in accordance with K.S.A. 12-3009 through 12-3012.

#### 24-105 REPEALING CLAUSE

Where applicable, these Regulations repeal the existing Zoning Regulations of Osage County, Kansas, in its entirety.