

Unified Development Regulations

2. Districts, General Provisions, and Applications

2.1. Districts

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

2.2. Zoning Map Adopted

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



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

2.3. Application of these Regulations

- 2.3.1. The following are exempt from restrictions and regulations (except for floodplain regulations) imposed by these regulations:
 - a. All buildings, land, structures, and accessory uses having an agricultural purpose
 - b. All buildings, land, structures, and uses of any railroad in conjunction with their corporate purpose.
 - c. Official signs of the local, county, state, and federal governments, and certain signs internal to a site as specified in Article 11.

2.4. Duties of the Staff

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

2.5. Application and Interpretation of these Regulations

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



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

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

2.6. Building, Zoning, and Sign Permits

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



- e. Lots less than one-half acre in size shall retain a registered professional Kansas surveyor to stake lot lines, building corners, required yard boundaries, and existing easements.
 - f. All buildings not having an agricultural purpose must follow the instructions specified by the zoning staff to determine yards, building corners, and easement dimensions. Applicants for permits on lots less than five (5) acres must obtain verification of the availability of Public Water Service District.
 - g. Building permits may be revoked for cause, including, but not limited to error, fraud, changed use or zoning district regulations. The zoning staff may revoke or refuse to issue building permits to any and all sites if the builder(s), contractor, developer, and/or owner violates or breaks agreements, conditions, or requirements imposed by the Planning Commission, Board of County Commissioners, or Pottawatomie County Engineer.
- 2.6.2. A sign permit may be issued for any structure, array, portable arrangement, or advertising device listed in these regulations as "permitted signs" within any zoning district.
- a. An application form must be completed and submitted to the zoning staff and signed by the property owner and sign owner.
- 2.6.3. Any permit may be revoked by order of the Zoning Staff for cause including, but not limited to:
- a. Insufficient funds checks
 - b. Fraud or other misrepresentation
 - c. Improper or erroneous ownership information
 - d. Violations of the rules, regulations, and procedures or requirements of any any part of these uniform development regulations.
 - e. A violation of any condition, requirement, rule or site-plan notation or developer agreement.
- 2.6.4. If more than one building permit is issued to an applicant within the same development or subdivision, and the zoning staff issues a notice of violation or stop-work order to one or more sites, then the zoning staff is empowered to suspend all on-going permits with the same subdivision or development until such time compliance is assured.
- 2.6.5. Any property owner aggrieved by the revocation or suspension of a building permit may file an appeal, within 30 days, to the Pottawatomie County Board of Zoning Appeals.

2.7. Exempt from Building, Sign, or other Permits

- 2.7.1. The following structures are exempt from building, sign, or other permits County-wide:
- a. See generally 2.3.1 above
 - b. Fences, drives, playhouses, play equipment
 - c. Landscaping devices, gazebos, pergola, and trellises, patios, retaining walls
 - d. Poles, wires, propane tanks, CATV devices, satellite receiving dish antennae (when permitted by right), devices for oil or natural gas distribution or transmission or equipment for the



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

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

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

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



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

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

2.8. Move or Relocating Structures

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

2.9. Accessory Buildings, Structures, and Uses - Generally

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

2.10. Temporary Buildings, Uses, and Structures

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

2.11. Previously Legal (Non-Conforming) Uses

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



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

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

