

## ARTICLE 2

### Article 2 DISTRICTS, GENERAL PROVISIONS & APPLICATIONS

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#### 100. Districts

To carry out and fulfill the purposes and intent of these regulations, the following zoning and special districts are hereby created:

##### Agricultural Districts

- A-1 General Agricultural District
- A-2 Rural Center District
- AB Agri-Business District
- PURD Planned Unit Rural District
- AR Agricultural Residential District
- AR-1 Large Lot Agricultural Residential District (10 acres)
- AR-2 Large Lot Agricultural Residential District (20 acres)

##### Residential Districts

- R-1 Single Family Residential District
- R-2 Two and Three Family Residential District
- R-3 Multi-Family Residential District
- PUD Planned Unit Development District

##### Manufactured Homes District

- MHP Manufactured Homes Park District

##### Business, Office and Commercial Districts

- CN Commercial Neighborhood District

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CH	Commercial Highway District
C	General and Service Commercial District
PCD	Planned Commercial District

### Manufacturing/Industrial Districts

MEP	Employment Park District
M-2	General Manufacturing District
M-3	Heavy Manufacturing District

### Special Purpose (SP) Overlay Districts

SP-1	Institutional Overlay District
SP-2	General Events Overlay District
SP-3	"P" Planned Overlay District

### General Floodplain Development Regulations

#### 101. Zoning Map Adopted

##### A. Map and Amendments.

1. Pottawatomie County is hereby divided 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.

a. 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.

b. Amendments to the Official Zoning Map shall be made in accordance with the provisions of these resolutions 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.

#### 102. Application of These Regulations

##### A. Exemptions

1. *The following are exempt from the restrictions and regulations (except for floodplain regulations) imposed by these resolutions:*

a. All buildings, land, structures and accessory uses having an agricultural purpose.

b. All structures, land, and uses of the State of Kansas, the Federal

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Government, Pottawatomie County, its agencies and townships.

c. All buildings, land, structures and uses of any "Railroad" in conjunction with their corporate purpose.

d. Public water service districts.

e. Official signs of local, county, state and federal governments and certain signs internal to a site as specified in Article 11.

f. Residential solar collectors, satellite receiving dish and antennae.

g. Storage buildings 120 square feet or less in area; handicapped accessibility ramps.

h. Patios, poles, flags and flag poles; wires & cables.

h. Fences drives playhouses and play equipment.

i. Internal renovation that does not result in an overall increase in square feet of the principal structure.

### 103. Duties of the Staff

1. The Zoning staff and deputies and/or Enforcement Officer and County Planner shall be appointed by the Board of County Commissioners. The duties of the zoning staff and Enforcement Officer shall be, but are not limited to:

#### *Zoning Staff and Deputies*

- a. Issue all certificates and permits
- b. Supervise all floodplain development permits & 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

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- i. 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.

### *Enforcement Officer and Deputies*

- a. Conduct all inspections
- b. Investigate and process all complaints and violations
- c. Issue "stop work" orders
- d. Other duties as delegated and specified by the Zoning Staff

### *County Planner*

- a. Prepare all staff reports
- b. Prepare all amendments to county plans and policies
- c. Prepare changes, additions and amendments to these Unified Development Resolutions
- d. Assist the Zoning Staff with the processing of zoning amendments and plats
- e. Performs duties and studies as assigned from time to time by the Board of County Commissioners

## 104. Application and Interpretation of These Regulations

1. Conformance – Hereafter no building, use, structure, or lot shall be used or occupied, erected, constructed or moved to another location except in conformance with all the regulations and rules contained in these regulations unless a variance, waiver, modification or an exception is granted for a departure to these resolutions.
2. Lot of Record – 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 resolutions 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 a part of these resolutions. To established bulk, use, yards and setbacks, the Zoning Staff may use an equitable method of averaging requirements or devising equivalent regulations that were in

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use at the time when the lot was conforming.

3. Setbacks and Yards – 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 of 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.
4. Structure Height – The vertical distance from the finished grade line to the highest point of the roof, excluding chimneys, ventilation devices and other projections.
5. Accuracy of Measurement – To assure an 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 the Staff.

### 105. Building, Zoning & Sign Permits

1. A building permit is required to construct, erect, modify or readapt any structure specified in these resolutions. 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 in 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 – 104 “Violations”). Except that, any landowner may cut, clear and remove any or all vegetation from a site.
2. Building Permit Designation – A building permit may be issued to any structure listed as a “permitted” use in any zoning districts or permitted conditional use.
  - a. An application form must be completed and submitted to the zoning staff and signed by the property owner. The zoning staff shall require proof of property ownership. The zoning staff shall not issue a permit to an applicant currently charged with a violation of these resolutions, or who owes late fees for construction without a building permit, sewer fees, or past due property taxes .
  - b. Reserved.
  - c. “Permit issued placards” shall be prominently posted on the building site along with a placard or sign giving the street address.

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- d. Unless the zoning staff issues different instructions, all building permit applicants shall (1) place a 3ft. identified stake at the dig line in front of all faces of a proposed building and (2) notify the zoning staff that the lot is "ready for inspection;" or, submit a plot plan, with a scale no larger than 1" = 50' indicating the placement of all structures relative to lot lines; or, retain a registered professional Kansas surveyor to stake lot lines, building corners, required yard boundaries, and existing easements.
  - e. Lots one-half acre or less in size must submit a plot plan as described above in Part(d).
  - f. All non-residential buildings not having an agricultural purpose must follow the instructors specified by the zoning staff to determine yards, building corners and easement dimensions. Applicants for permits on lots less than 5 acres must obtain verification of the availability of rural water.
  - g. Building permits are valid for 180 days following the day of issuance. 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 at any and all sites if the builder(s), contractor and/or owner developer violates or breaks agreements, conditions, or requirements imposed by the Planning Commission, BOCC, or Pottawatomie County Director of Public Works.
3. A sign permit may be issued for any structure, array, portable arrangement or advertising device listed in these resolutions 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. The zoning staff shall require proof of property ownership and evidence that there are no "past due" property taxes or other charges or fees. The zoning staff shall not issue a sign permit to an applicant currently charged with a violation of these resolutions, or who owes late fees to the Office of Planning and Development for construction without a building permit, or past due charges for sewer . Unless otherwise indicated by the zoning staff, sign permits will be issued within five working days after the day of application if all information and duties are performed correctly by the applicant.
  4. Any permit may be revoked by order of the zoning staff for cause including, but not limited to: (1) Insufficient funds checks; (2) fraud or other misrepresentation; (2) improper or erroneous ownership information;

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(3) A violation(s) of the rules, regulations, procedures or requirement of any part of these uniform development resolutions; (4) violation of the posting requirement in 105 (c) above; (5) a violation of any condition, requirement, rule or site-plan notation or developer agreement. 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 site, then the zoning staff is empowered to suspend all on-going permits with the same subdivision or development until such time compliance is assured.

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.

### 106 Exempt From Building, Sign and/or other permits

1. The following structures are except from building, sign, and/or permits County-wide:
  - a. See generally 102 above.
  - b. Any building, structure or sign having a valid agricultural purpose, except that, those required for conformity with building setbacks and regulations of the Flood Insurance Rate Map (F.I.R.M).
  - c. Fences, drives (but see road entrance permit), playhouses, play equipment.
  - d. Landscaping devices, gazebos, pergola and trellises, patios, retaining walls.
  - e. 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 distribution of electricity, storage tanks for fertilizers, fuel or other chemical substances.
  - f. Water towers and water storage tanks, wind mills,
  - g. An accessory storage building pre-assembled or assembled on-site not larger than 120 sq. ft., but – this does not include a container or trailer, shipping carton, or any other similar structure.
  - h. 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.
  - i. Any building, structure or sign of a school district,

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- j. Reserved
  - k. Above ground, prefabricated swimming pools, but does not include in-ground types.
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 III A 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, countertops, and similar finish work
  - h. Temporary motion picture, television, and 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
3. A building permit shall be required in the Blue Township Sewer District unless it is exempted in both 106.1 and 106.2 above.

### 107. Moving or Relocating Structures



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1. All buildings to be moved/relocated shall be required to obtain the following permits:
  - a. Any building to be moved to another location governed by these Unified Development Resolutions shall first obtain a building and/or zoning compliance permit from the zoning staff and then a moving permit from the County Clerk.

### 108. Accessory Buildings, Structures and Uses – Generally

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. An accessory use is subordinate in size and function to the principal use.
  - a. An accessory building or use, other than a deck or carport, shall not be established in a front yard unless otherwise permitted by these resolutions.
  - b. Residential accessory uses do not include storage containers, shipping containers, truck bed or truck trailers, or any other use or structure not originally intended for storage or customarily associated with a residence.
  - c. Accessory uses include solar panel collectors; "mini" wind generation machines, satellite receiving, personal 2-way radio antennae, car or RV ports, accessory dwelling units, and permitted structures used as home occupations.

### 109. Temporary Buildings, Uses and Structures

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 homes park.
  - b. The zoning staff is hereby empowered to place reasonable conditions and restrictions on a temporary building or use to insure 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.

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### 110. Previously Legal (Non-Conforming) Uses

1. A previously legal building, structure, or use is a vested property right running with the land and is entitled to continue to in accordance with the restriction contained in this section unless otherwise specifically noted in these resolutions.
2. Any use legally and lawfully established before the effective date of the adoption of these resolutions, 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 not be allowed to rebuild or otherwise be re-established unless it is more conforming to these resolutions. 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:
    - (i) Result in a building or use that is more conforming to these resolutions.
    - (ii) Correct deficiencies required for licenses, permits or certificates.
    - (iii) Be consistent with routine maintenance, correct deficiencies for life safety or accessibility.
  - c. If the occupation of a non-conforming building ceases for a period of one year, the use may not be resumed unless it conforms to these resolutions.
  - d. Any use accessory to a non-conforming use shall not continue if the principal use is discontinued.