

**ZONING REGULATIONS
OF THE
CITY OF OZAWKIE**



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CODE OF THE CITY OF OZAWKIE, KANSAS**

March 28th, 2007

CHAPTER 1. DEFINITIONS

R-101. **DEFINITIONS:** The following definitions shall be used in determining the meanings of all words and phrases in these regulations.

- (1) **ALTERATION:** Any addition or change in the location or design of any exterior wall of a main building including, but not limited to, placement of canopies or awnings. The definition of alteration does not include repainting, re-siding, or re-roofing.
- (2) **BASEMENT:** Shall mean a portion of a building located partly or wholly underground but having one half or more than one half of its clear floor to ceiling height below the average grade of the adjoining ground. The I.B.C. (International Building Code) recommends a minimum height of seven feet and seven inches (7'7"). The national average floor to ceiling basement height is seven feet and ten inches (7'10").
- (3) **BUILDING:** A structure designed to be used as a place of occupancy storage or shelter.
- (4) **BUILDING, ACCESSORY:** A minor building that is located on the same lot as a principal building and that is used incidentally to a principal building or that houses an accessory use.
- (5) **BUILDING PERMIT:** A permit issued by the City that authorizes a specific dwelling or other structure to be placed on the indicated property.
- (6) **BUILDING, PRINCIPAL:** The primary building on a lot or a building that housed a principal use.
- (7) **CELLAR:** A structure partly or wholly constructed underground used as weather protection (storm cellar) or storage (root cellar) but may be used for other purposes. They are normally earth bermed or earth covered. Modern cellars may be made of metal or concrete and are often invisible from ground level, except for egress hatches or doors. Cellars are not normally connected directly to a dwelling. They are not to be used for habitable space.

- (8) **CITY:** The City of Ozawkie, Kansas.
- (9) **COUNCIL:** The City Council of the City of Ozawkie, Kansas.
- (10) **CRAWL SPACE:** Shall mean a space located below the main living space of a dwelling, whether finish or unfinished, whether it has a structural floor or not, that has less than seven and one-half (7 ½) feet of head space. This space may used for storage or installation of utilities but shall not be utilized as habitable space.
- (11) **DEVELOPER:** A person who is responsible for any undertaking that requires a zoning permit, special use permit, conditional use permit or sign permit.
- (12) **DEVELOPMENT:** That which is to be done pursuant to a zoning permit etc.
- (13) **DRIVEWAY:** A lane or path that leads from a street, thoroughfare, avenue, etc. and leads to a residential or business entryway or to a garage. The driveway should be designed to be aesthetically pleasing not only to the property owner but also the surrounding properties and the City as a whole. It should be constructed of appropriate materials such as concrete, asphalt, brick or gravel.
- (14) **DWELLING UNIT:** An enclosure containing sleeping, kitchen, and bathroom facilities designed for and used or held ready for use as a permanent residence by one family.
- (15) **EASEMENT:** Is that portion of private land below or over which public utilities (water, gas, sewer, electrical, etc.) cross. Regulations restrict the types of construction and or landscaping which may encroach there. “City” easements usually are found on the street sides of any property. “Utility” easements may cross or parallel private property, help to maintain access to said utilities and may be located on “city” easements.
- (16) **FAMILY:** One or more persons living together as a single housekeeping unit.

(17) **HABITABLE / HABITATION:** Shall refer to space used for living sleeping, eating, cooking and bathrooms, but may exclude storage or closet or utilities locations.

(18) **HOME OCCUPATION:**

- (a) A commercial activity that: (1) is conducted by a person on the same lot (in residential district) where such person resides and (2) is not so insubstantial or incidental or not so commonly associated with residential use as to be regarded as an accessory use, but it can be conducted without any significantly adverse impact on the surrounding neighborhood.
- (b) Without limiting the generality of the foregoing, a use may be regarded as having a significant adverse impact on the surrounding neighborhood if: (1) goods, stock in trade or other commodities are displayed openly, (2) any on premises retail sales occur, (3) more than one person not a resident on the premises is employed in connection with the purported home occupation, (4) it creates objectionable noise, fumes, odor, dust or electrical interference, or (5) more than 25 percent (25%) of the total gross floor area of the residential buildings plus other buildings housing the purported home occupation or more that 500 square feet of gross floor area (whichever is less) is used for home occupation purposes.
- (c.) The following is a non-exhaustive list of examples of enterprises that may be home occupations if they meet the foregoing definitional criteria:

The offices or studios of: accountant, author, artist, dance instructor (other than group), day care (caring for six (6) or less children with fenced outdoor play area of at least 100 square feet per child, drafts-man, engineer, hairdresser, handcrafts, insurance counselor, manicurist, photographer, secretarial service, swimming instructor, teacher (tutoring other than group), telephone answering service, lawyer, workshops, greenhouses, kilns, dressmaking and hairdressing studios.

(19) **LOT:**

- (a) A parcel of land whose boundaries have been established by legal instrument such as a recorded deed or a recorded plat map and which is recognized as a separate legal entity for purpose of title.
- (b) Of a public body or an authority with power of eminent domain condemns, purchases or otherwise obtains fee simple title to a lesser interest in a strip of land cutting across a parcel of land otherwise characterized as a lot, by this definition, and the interest thus obtained or the road so created is such as to effectively prevent the use of this parcel as one lot, then the land on either side of this strip shall constitute separate lots.

(20) **NONCONFORMING USE:**

- (a) A nonconforming situation occurs when property is used for a purpose or in a manner made unlawful by the regulations applicable to the area in which the property is located. (For example a commercial office building in a residential area is a nonconforming use.) The term also refers to the activity that constitutes the use made of the property. (For example all the activity associated with operating a retail store in a residentially zoned area constitutes a non-con-forming use.
- (b) While the City Council recognizes that retirement facilities, nursing homes, extended care facilities and special needs homes are in fact homes, because they may contain several families or family members and because they are commercial by nature, they must be considered “nonconforming use” and are not authorized in residential areas. These same facilities along with Pre-schools and special needs schools, while they are encouraged, must be located in that portion of the city designated “commercial” or “business”.

- (21) **OWNER:** Shall mean any person, firm or corporation who jointly along with others, shall be in actual possession of, or have charge care and control of any structure or dwelling within the city.

- (22) **PERSON:** An individual, trustee, executor, other fiduciary, corporation, firm partnership, association, organization or other entity acting as a unit.
- (23) **PREMISE:** Shall mean any lot or land area, either residential or non-residential not covered by a structure and which is subject to city rules and regulations in part or whole.
- (24) **RESIDENCE, DUPLEX:** A two-family residential use in which the dwelling unites share a common wall and in which each dwelling unit has living space on the ground floor and a separate ground floor entrance.
- (25) **RESIDENCE, SINGLE FAMILY-DETACHED:** One dwelling unit per lot. A residential use consisting of a single detached building containing one dwelling unit and located on a lot containing no other dwelling unit.
- (26) **RESIDENCE, TWO STORY:** A residential use consisting of a building containing two floors (not including the basement) both used as a dwelling unit and both occupied by a single family.
- (27) **ROAD:** All public ways used to provide motor vehicle access to two or more lots or two or more distinct areas of buildings. (See also street).
- (28) **SETBACK:** Is a specified distance from the public roads, streets, alleys, thoroughfares and common property lines where no dwellings or permanent structures are permitted.
- (29) **SIGN:** A device that is sufficiently visible to persons not located on the lot where such device is located and is designed to attract the attention of such person or to communicate information to them.
- (30) **SPECIAL USE PERMIT:** A permit issued by the City Council that authorizes the recipient to make use of property in accordance with the requirements of this chapter as well as any addition requirements imposed by the City Council.

- (31) **STORM SHELTER:** A structure separate from or a part of a dwelling that is specially constructed so as to withstand “severe weather”. Cellars may qualify or specially designed rooms within a dwelling may be built or adapted. Commercially made structures are available in kit form.
- (32) **STREET:** A public street or road with respect to which an offer of dedication has been made. Usually the property of the City. (See also road).
- (33) **STRUCTURE:** Anything constructed or erected.
- (34) **TENT:** A portable shelter consisting of, but not limited to, woven, non-woven or petrol-chemical based pliable materials such as canvas, nylon, Mylar, Visqueen etc., stretched over a rigid or supporting framework of poles, ropes or pegs.
- (35) **TRACT:** A lot (by definition). The term “tract” is used interchangeably with the term lot, particularly in context where one “tract” is subdivided in several lots.
- (36) **USE:** The activity or function that actually takes place or is intended to take place on a given lot.
- (37) **UTILITY FACILITIES:** Any structures or facilities (other than buildings, unless said buildings are used as storage incidental to operation of such structures or facilities) owned by the city, a not for profit organization, a corporation or any entity defined as a public utility for any purpose, by state law and used in connection with the production, generation, transmission, delivery, collection or storage of water, sewage gas, oil, or electronic signals (telephone, CATV DSL, etc.).
- (38) **ZONING PERMITS:** A permit issued by the City that authorizes the recipient to make use of property in accordance with the requirements of permit regulations.
- (39) **VARIANCE:** Permission given by an appropriate agency for a person (entity) to vary from the Planning and Zoning or Building Regulations and /or Ordinances in a specific way.

Chapter 2. ZONING LIMITS

R-201. **ZONING LIMITS ESTABLISHED:** The following shall be and are hereby declared to be the limits to which the Zoning Regulations of the City of Ozawkie, Kansas, shall apply. All of lots 1 thru 417, in Ozawkie, Jefferson County, Kansas (recorded plat: Book 1, Page 73)

R-202 **REFERENCE AREA:** In accordance with the agreement between City of Ozawkie and the Jefferson County Planning Commission. The Jefferson County Planning Commission shall, from time to time, request the input of the City of Ozawkie within three (3) miles of said boundaries and shall upon request; respond in writing their position in said changes. The request for input shall be acted on initially by the Planning and Zoning Board of the City of Ozawkie. All recommendations shall contain “reasons” for their conclusions.

Chapter 3 ZONING RESTRICTIONS

R-301 TRAILERS, TENTS, ETC.: No trailer houses, tents, mobile dwellings, tar paper sided structures, caves or shacks shall be allowed to occupy any of the lots, except recreational vehicles that are the property of the homeowner, which may be stored on their lots.

R-302 RESIDENTIAL RESTRICTIONS:

- (a) Residential lots shall not be used for the purposed of selling, servicing or storing, nor offering to sell service or store any fishing equipment supplies, bait, boats, appliances, parts for boats or for motors for boats, inboard or outboard or any other vehicle of mode transportation, which activity would relate to the general public, but not restricted to personal use, ownership and enjoyment.
- (b) Residential lots may be used for the purpose of selling the aforementioned to items during the following:
 - 1. The “All City Garage Sale”, if held that year.
 - 2. In preparation for moving from the residence in question to another residence, city or state.
 - 3. As a one time event. (Selling a large item that is excess to needs, no longer wanted or being replaced).
- (c) Homeowners are restricted to no more than 3 “garage sales” in a calendar year, excluding the “All City Garage Sale”, for a total of four (4). Said sales shall not exceed three (3) days in length. (Example: Fri-Sat-Sun)
- (d) If the Mayor or his designated representative, or the City Council determines that a resident is violating these restrictions, said resident shall be made aware of said restrictions and required to cease and desist. Failure on the resident’s part to live up to these restrictions shall result in the City placing the matter in the hands of a competent court. A penalty for each violation shall be _____. (See 1-118)

R-303 RESIDENCY DURING CONSTRUCTION: No person or persons shall be allowed to live in basements on any of the lots, prior to the completion of the upper structure and exterior finishing of the particular house.

R-304 ALLOWED OCCUPATIONAL USE: Residential lots shall be used for private dwelling purposed only and may not be used for commercial purposes except for the following: See: “DEFINITIONS”, “HOME OCCUPATIONS” “(10)”

R-305 DISTRICTS, ESTABLISHED: There is hereby established, and a map appended, as series of “districts” within the City of Ozawkie. Said districts shall be used to establish the types of structures allowed in each zone. A map shall be appended to this regulation, outlining each “district”.

1. **R-1: SINGLE FAMILY, RESIDENTIAL DISTRICT: (Single Story)**
This is the most restrictive classification and is established to most closely guard the health, safety and welfare of the residents as well as to protect property values and provide for community aesthetic standards and values.

A. Permitted Uses:

- a. Single story, single family, and detached dwellings and structures incident thereto.
- b. Municipally owned parks and playgrounds.
- c. Churches, synagogues and other places of worship.
- d. Public utilities, police and fire structures.
- e. Home use occupations.
- f. In home child care. (See “definitions” item 16)

2. **R-2: SINGLE FAMILY, RESIDENTIAL DISTRICT: (Two Story)**
This district is identical in requirements to the R-1 District, except that it provides for the construction of two-story dwellings, and is designed to promote compatibility of development within neighborhoods.

A. Permitted Uses:

- a. Two story, single family, detached dwellings and structures incident thereto.

- b. Municipally owned parks and playground.
- c. Churches, synagogues and other places of worship.
- d. Public utilities, police and fire structures.
- e. Home use occupations.
- f. In home child care. (See “definitions” item 16)

3. R-3: Two-Family, Residential District: (Duplex) This district allows for both single-family and two family dwellings, and is to promote compatible development within the neighborhood.

A. Permitted Uses

- a. Single story, two-family, attached dwellings (duplexes) and structures incident thereto.
- b. Municipally owned parks and playgrounds.
- c. Churches, synagogues and other places of worship.
- d. Public Utilities, police and fire structures.
- e. Home use occupations.
- f. In home child care (see “definitions” item 16)

4. B-1 **BUSINESS DISTRICT:** This district is designed to provide a central, compact area for commercial and business used, recognizing that these are generally not compatible with residential use, and recognizing that businesses often have special needs for utilities, streets, fire and police protection and placing these uses together for the most efficient provisions of these needs.

A. Permitted Uses:

- a. Retail sales.
- b. Professional and business offices.
- c. Electric and small appliance repair.
- d. Food and beverage sales.
- e. Theaters.
- f. Lodge halls and fraternal organizations.
- g. Hotels, motels and boarding houses.
- h. Barber and beauty shops
- i. Financial institutions
- j. All uses allowed in R-1, R-2 and R-3 except residential.

B. Uses Permitted With “Special” Permit:

- a. Gasoline and service stations.
- b. Auto, boat and machinery service and repair
- c. Broadcast studios
- d. Storage (enclosed)
- e. Nursing homes/Retirement villages and the like
- f. Pre-schools, Special Needs Schools, etc.

R-306 HOUSING SIZES AND LOCATION RESTRICTIONS. There is hereby established, and a map appended, a series of “blocks” within the City of Ozawkie. Said blocks shall be used to determine the minimum size of residences that may be constructed within and the direct the location or restrictions on location within the building site (lot). A map shall be appended to this regulation outlining each “block”.

1. Blocks A, B, C, and D: The minimum number of square feet of living area on the main floor is: 1200 (one thousand two hundred) square feet.
2. Blocks E, F, G, H, I, J, K, L, M and Q: The minimum number of square feet of living area on the main floor is: 1000 (one thousand) square feet.
3. Block N, O, P, R: The minimum number of square feet of living area on the main floor is: 750 (seven hundred and fifty) square feet.
4. The height of houses in all blocks is restricted to 21 (twenty-one) feet above the highest existing point of the lot on which the structure is erected.
5. On Kiowa Street, Block P, where “two story” residences are permitted, the height restriction does not apply and the minimum number of square feet required, pertains to the main floor only.
6. Block S: Business District: The minimum number of useable footage is 500 (five hundred) square feet.
7. The maximum height of buildings in the “business area” is 35 (thirty-five) feet. This is measured from the top of the foundation or sill plate, not from any point on the property.

8. No structures shall be built outside of the surveyed property line of the lot.

R-307 BUILDING SETBACKS:

- (a) There shall be a building “setback” line of no less than thirty (30) feet from all street or public thoroughfare right-of-ways. This shall be measured from the edge of the street or curb, if installed.
- (b) There shall be a set back on side yards of seven (7) feet or ten (10) percent (%) of the average width of the lot, whichever is larger. However, the side yard need not exceed fifteen (15) feet.
- (c) There shall be a rear yard setback of not less than thirty (30) feet between the dwelling and the surveyed property line.
- (d) Side yard and rear yard setbacks shall be measured from the common property line or any street edge or curb, if applicable.

R-308 RUNOFF PROVISIONS:

- 1. No person may place or construct any building footer, basement, and foundation or floor concrete slab for any type of structure or make a provision to accommodate kit or pre-assembled structures; or grade the construction placement sight that will cause surface water to runoff to flood any existing structure located at a lower level.
- 2. No person may place or construct any building footer, basement foundation or floor concrete slab for any type of structure below natural existing grade of the lot that the structure is placed on without providing adequate grading or drainage capable of protecting the structure from subsurface drainage from higher elevations.
- 3. Non compliance with any requirement of this section will cause the owner/builder of any structure incurring any type of structural, material or content damage from any type of water incursion to be totally and solely responsible for all damages that may result from any water incursion.

R-309 EASEMENT: CITY

- (a) There are hereby established easements on all private property for the

convenience of the city. All such easements are located on the street sides of any property. All easements are recorded on the property deeds and on the plat maps located in the Jefferson County Court House

- (b) No permanent or temporary structures may be erected on said easements. No fences may encroach on said easements. Driveways sidewalks and paths are subject to damage during routine or emergency access to any utilities in said easements.
- (c) While the planting of trees is encouraged, the Public Works supervisor should be contacted before any trees are placed on City easements. Homeowners are discouraged from planting shrubs, ornamental grasses and hedges on City easements and should be aware that such items are not replaceable by the City in case of damage.

R-310 EASEMENTS: Utilities.

- (a) There are hereby established easements on all private property of ten (10) feet on either side of any city utilities, (i.e. water and sewer).
- (b) Easements for gas and electrical/communications lines shall be determined by the respective agencies and information on said easements may be obtained by contacting them or the public utilities.
- (c) No permanent or temporary structure may be erected on easements except easily removed fences, sidewalks and other landscaping. It is understood that neither the City of Ozawkie nor the authorized utility companies shall be held liable for damages to unauthorized items during normal or emergency repairs or services to utilities.
- (d) Installation of shrubs, ornamental grasses, hedges and trees should be considered in regards to Utility Easements, and shall not be replaced by the Utility Agencies in the event of damage.
- (e) No part of this regulation shall be interpreted as to prevent the installation of any of the above utilities parallel to a residence and within five (5) feet of the residence, if said location is necessary to the introduction of the utilities to the residence or other permanent structure.

R-311 ROADS, ALLEYS AND THOROUGHFARES: No roads, alleys or public thoroughfares may be constructed across private property without the expressed and specific written permission of the City of Ozawkie and unless the construction specifications meet the standards as set out in both County Regulations and State Statutes regarding such construction. This restriction is not meant to apply to private driveways serving dwellings located on said private property.

R-312 CITY PREROGATIVES: The City of Ozawkie reserves the right to approve the location of, appearance of and general material and construction used for any dwelling or structure of any type in the corporate limits of the City. It is specifically provided that the City prerogatives and rights of approval of construction shall not be limited to the amount of living space and location but shall be directed at obtaining the best general appearance of the structure in terms of the compatibility with adjacent dwellings and the general appearance of the city as a whole. No building shall be erected, placed or altered on any lot until construction plans and specifications and a site plan showing the location of the structure have been submitted to the Planning and Zoning Board for consideration and the said recommendations to the City Council be acted upon. Consideration shall be given to quality of workmanship and materials, harmony of design with existing structures and to location with respect to topography and finish grade elevation.

R-313 SIGNS AND BILLBOARDS: The construction or maintenance of signs, billboards or advertising structures of any kind is prohibited except for the following:

1. Real Estate:

- (a) One temporary sign advertising the sale of property shown on the recorded plat, provided it does not exceed three (3) feet by two (2) feet is permitted.
- (b) The owners of a lot on which a model home has been constructed shall have sign advertising on said premises and the development company is granted the right to locate and erect a sign designating said model home as a temporary real estate office. Said sign shall not exceed three (3) feet by two (2) feet.

2. Political:

- (a) No more than three (3) temporary signs, per candidate not to exceed three (3) feet by two (2) feet, may be erected on private property, for a period of thirty (30) days prior to scheduled election.
- (b) Said signs should be removed within five (5) days of completion of election

3. Business: Commercial,

- (a) All commercial business signs are subject to appropriate County Regulations or State Statutes and commercial business signs shall only be allowed in those areas of the City of Ozawie zoned as “business”.
- (b) No provisions are made for “signs” advertising businesses that are approved for residential areas. (See Definition 16 - Home Occupation). It shall be unlawful to have or maintain any signs advertising said occupation(s) on property that is zoned “residential”.

4. Exclusions: There are excluded from these provisions lots which are occupied by churches, school and lots which are the property of the City of Ozawie.

R-314 LIVESTOCK: No provisions, temporary or permanent, shall be made on any lot for the raising of poultry, rabbits, cows, horses, goats, sheep, pigs or any other livestock, and the raising of poultry, rabbits, cows, horses, goats, sheep, pigs or any other livestock is strictly prohibited.

R-315 EXTERIOR FINISH: The exterior of any structure must be completed and/or considered finished and painted, if appropriate, on or before 180 (one hundred and eighty) days from commencement of construction, except that said completion shall not be required prior to 60 (sixty) days after gas, water, sewer and electricity are available to the individual lot.

R-316 YARD MAINTENANCE:

- (a) All yards and lawns must be maintained. If any owner shall fail to

keep lawns and yards maintained and grass cut, a representative of the city may enter upon the premises to cut grass and maintain said yards, the cost of which will be assessed to the delinquent owner. (See City Ordinances, Chapter 8 article 4).

- (b) The control of noxious weeds is governed by State Environmental Statutes and the City shall notify the appropriate agencies when they are found. Control of all other weeds fall under the requirements of paragraph (a) above.

R-317 OBSTRUCTION OF VIEW: No fences, hedges, or screen shrubbery over six (6) feet tall shall be permitted. Owners of property bordered by a street or public thoroughfare shall insure that the view of motor vehicle operators is not obstructed.

R-318 UTILITIES: REQUIRED.

- (a) All homes must be hooked to the sewer and water systems provided by the city and under no conditions shall any outdoor toilet be permitted to be constructed nor septic tank systems be allowed to be constructed.
- (b) The city is under no obligation to provide sewers which will serve basements.
- (c) Temporary facilities (port-a-potties etc.) are allowed when needed for public functions. However, they shall be serviced on a regular basis and shall not be allowed to become a health hazard. They shall be removed as soon as they are no longer necessary.

R-319 STORM SHELTERS: Storm shelters are recommended (but not mandatory) for all residential and business structures. Storm shelters may be a part of the dwelling or separate from the dwelling. Separate shelters should be as inconspicuous as possible. R-15

R-320 CULVERT: Where needed due to landscaping or to provide for adequate removal of surface water. Every property owner shall furnish his own culvert or water tube on his private vehicle entrance. The culvert or tube shall be not less than twelve inches.

R-321 EQUIPMENT: PROHIBITED PARKING: : No farm tractors, farm

equipment, bulldozers, trucks larger than one ton capacity or other large equipment shall be parked on any lots or streets except during construction of streets and sewers and during construction of structures in the city. (See also City ordinance 14-202)

R-322 DAMAGED BUILDINGS:

- (a) No building which has been damaged by fire, explosion, act of God or similar occurrence, to the extent of more than fifty (50) percent (%) of its structural value, shall be restored except in conformity with the Ordinances of the City of Ozawkie.
- (b) In the event of such destruction, the owner shall clear the debris and secure the property forthwith. Delays are authorized pending insurance claims.
- (c) Further, the owner shall notify the City of Ozawkie, in writing, of their intent with respect to restoring the property. If the structure is to be restored, a schedule of construction including an estimated start date shall be presented to the City. If the structure is not to be restored, the owner shall clear and restore the grade of the property within thirty (30) days of the occurrence of the damage. Extensions of the thirty (30) day restriction may be made only upon written applications to the city stating the reason(s) for any proposed delay. (See also Chapter IV, Article 6, of the City Ordinances: Ord. 8-514 and All of Chapter VIII, Article 7.)

R-323 PENALTIES: Failure to comply with any of the provisions of these regulations shall result in fines as noted in the City of Ozawkie, Schedule of Fees, Fines, And Bonds. (See City Ord. 1-118)

R-324 SEVERABILITY: If any provisions of these regulations or its applications to any person or circumstance are held invalid, the invalidity does not affect other provisions or applications of this act which can be given effect without the invalid provision of application, and to these end provisions of this act are severable.

R-325 DISCLAIMER: No part of these Zoning regulations should be construed as denying any person of their rights of appeal to a competent court.