

SECTION 1

TITLE, AUTHORITY AND ADOPTION

1-010 TITLE

These regulations for the City of Tonganoxie, Kansas, including the text herein as well as the appendices and zoning district maps attached and made a part thereof, shall be known, and may be cited and referred to as the Tonganoxie Zoning and Subdivision Regulations.

1-011 STATUTORY AUTHORITY

The Development Regulations are adopted pursuant to the provisions of Chapter 12, Article 7 of the Kansas Statutes Annotated (KSA. 12-741 et seq.), and amendments thereto, for the state of Kansas.

1-012 PURPOSE

The provisions herein set forth are enacted to implement the land use portion of the comprehensive plan for the City and to promote the health, safety, morals and general welfare of the citizens of the City. They are intended to lessen congestion in the streets; to secure safety from fire, panic and other dangers; to provide adequate light and air; to prevent the overcrowding of land; to divide the City into zones and districts; to regulate and restrict the location and use of buildings and the uses of land within each district or zone; and to facilitate the adequate provision of transportation, water, sewage, schools, parks, and other requirements.

1-013 ORDINANCE ADOPTION

- A. These Zoning and Subdivision Regulations shall become effective on January 15, 2003, the date of publication of Ordinance # 1138, as approved by the Governing Body for the City of Tonganoxie.
- B. The approval of these regulations shall serve to repeal Ordinance No. 867 Zoning Ordinance and Subdivision Regulations of the City of Tonganoxie, Ks, 1992 and all ordinances amending the zoning and subdivision regulations contained within the ordinance.
- C. The passage of these regulations does not affect the right of the City to prosecute any violation of the previous ordinance, if the violation occurred while that ordinance was in effect.

1-014 JURISDICTION

- A. The provisions of these Zoning and Subdivision Regulations shall apply to all uses, structures and land within the corporate limits of the City of Tonganoxie, Kansas.

However, nothing contained within these regulations shall be construed to preclude the City from engaging in extraterritorial planning activities pursuant to KSA 12-743, and amendments thereto.

B. The jurisdictional area shall be shown on the Official Zoning District Map.

1-015 ZONING DISTRICT MAP

A. The Official Zoning District Map for the City of Tonganoxie, kept on permanent public display at the Tonganoxie City Hall, with all explanatory notations, references, and other information shown thereon, is hereby incorporated into this ordinance as if the same were set forth in full herein.

B. Establishment of Districts:

The City of Tonganoxie is hereby divided into the following zoning districts:

- (1) R-R RURAL DISTRICT: A district designed for a variety of agricultural and related uses and permits single family residential and public uses.
- (2) R-RE RESIDENTIAL ESTATE DISTRICT: A district providing for single family residential development at a density not less than 32,670 square feet per lot.
- (3) R-I INFILL DISTRICT: A district providing for residential and limited commercial development similar in size, lot coverage, massing, density and character to those on surrounding lots. This overlay district is bounded by Washington Street, East Street, and 24/40 Highway, plus the Elm Park Subdivision.
- (4) R-SF SINGLE FAMILY DISTRICT: A district providing for single family residential development at a density not less than 6,000 square feet per lot.
- (5) RMF-1 MULTI-FAMILY I DISTRICT: A district providing for one (1) to four (4) family dwelling units at a density of not less than 7,500 square feet per lot or 3,000 square feet per dwelling unit, whichever is larger.
- (6) RMF-2 MULTI-FAMILY II DISTRICT: A district providing for two (2) to sixteen (16) family dwelling units at a density of not less than 10,000 square feet per lot or 1,500 square feet per dwelling unit, whichever is larger.
- (7) RMF-3 MULTI-FAMILY III DISTRICT: A district providing for multi-family development (16 units or more) at a density of not less than 10,000 square feet per lot or 1,500 square feet per dwelling unit, whichever is larger.

- (8) "R-MHP" MANUFACTURED HOME PARK DISTRICT: A district providing for manufactured home park development according to the "Mobile Home Code."
- (10) "HBD" HISTORIC BUSINESS DISTRICT: This district is intended to provide for businesses, which are compatible with the existing character and design standards of the Tonganoxie Central Business District. Warehousing and manufacturing are strictly discouraged.
- (11) "LBD" LIMITED GENERAL BUSINESS DISTRICT: This district is designed to provide a broad range of retail shopping and personal service uses consistent with neighborhood uses.
- (12) "GBD" GENERAL BUSINESS DISTRICT: A district designed to permit business use which is primarily oriented toward highway and arterial streets for their customers, including very light industrial uses.
- (14) "I-LT" LIGHT INDUSTRIAL DISTRICT: A district designated for light manufacturing, processing, warehousing and wholesale distributing.
- (15) "I-MD" MODERATE INDUSTRIAL DISTRICT: A district similar in use to "I-LT" except providing for lower density and more off-street parking.
- (16) "I-H" HEAVY INDUSTRIAL DISTRICT: This district may provide for industrial operations of all types where compatibility with adjacent districts is sensitive.

C. In addition to the districts listed above, the following zoning may be invoked upon specific parcels of land as provided in this ordinance:

"PUD-R" PLANNED RESIDENTIAL DEVELOPMENT DISTRICT: A district providing for flexibility of design standards for multi-family residential use. Extensive development plans are required.

"PUD-C" PLANNED COMMERCIAL DISTRICT: This district is to provide for and encourage the grouping of business buildings into "centers" in keeping with the modern concepts of office, service and shopping center design.

"COMMUNITY UNIT PLAN" This Plan provides for flexibility of design standards for mixed-use development allowing for residential and accessory uses such as churches, schools and daycare facilities.

D. Interpretation of the Zoning District Map:

- 1. Boundaries indicated as approximately following city limits shall be construed as following such city limits.

2. Where the designation of a district boundary line coincides with a street alley, waterway, or railroad right-of-way, the boundary lines shall be the centerline of said indicated element unless otherwise stated.
3. Where the district boundaries do not coincide with the location of streets, waterways, or railroad rights-of-way but do coincide with lot lines, such lot lines shall be construed to be the boundary of such district.
4. Where the centerline of a street, alley, public way, waterway or railroad right-of-way serves as a district boundary, the zoning of such areas, unless otherwise specifically designated, shall be deemed to be the same as that of the abutting property up to such centerline
5. Whenever any street, alley or other public way is vacated, a zoning district adjoining either side of said street, alley or other public way shall automatically be extended to its centerline if ownership is split along the centerline.
6. Where none of the above rules apply, the district boundaries shall be determined by the use of the scale shown on the zoning map.

1-016 RULES OF CONSTRUCTION AND INTERPRETATION

A. The following rules shall hold true for all regulations contained in this ordinance, unless the context clearly requires otherwise:

1. Words used in the present tense shall include the future.
2. Words in the singular number include the plural number, and words in the plural number include the singular number.
3. Words used in the masculine gender include the feminine and neuter.
4. The phrase 'used for' shall include the phrases 'arrange for', 'designed for', 'intended for', 'maintained for' and 'occupied for'.
5. The words 'shall' and 'must' are mandatory. The words 'may' and 'should' are permissive.
6. Unless otherwise specified, all distances shall be measured horizontally.
7. The word 'City' refers to the City of Tonganoxie, Kansas.

B. Interpretation of these regulations shall be guided by the following:

1. In their interpretation and application, the provisions made by these regulations shall be held to be the minimum requirements for the promotion of the public health, safety, morals, and welfare.
2. Where the conditions imposed by any portion of these regulations upon the use of land or structures are either more restrictive or less restrictive than comparable conditions imposed by other provisions of any other law, ordinance, resolution, rule or regulations of any kind, the regulation which is more restrictive shall govern.
3. These regulations are not intended to abrogate, annul or otherwise interfere with any easement, covenant or any other private agreement of legal relationship. Provided, however, that where the provisions of these regulations are more restrictive (or impose higher standards or requirements) than such easements, covenants or other

private agreements or legal relationships, the provisions of these regulations shall govern.

4. No structure or use, which was not lawfully existing at the time of the adoption of these regulations, shall become or be made lawful solely by reason of the adoption of these regulations. To the extent that, and in any respect that, said unlawful structure or use is in conflict with the requirements of these regulations, said structure or use remains unlawful hereunder.
5. Where this ordinance permits or requires an act on the part of an 'owner' or 'landowner', said designation shall include all owners, partners, tenants in common, or any other person with ownership interests.

C. Time Computation

1. In computing any period of time the day of the act, event, or default from which the designated period of time begins to run shall not be included.
2. The last day of the time period shall be counted unless it falls on a Saturday or Sunday or a legal holiday observed by the City of Tonganoxie.
3. When the prescribed time period is 7 days or less, Saturdays, Sundays and legal holidays observed by the City of Tonganoxie shall be excluded.
4. Whenever a notice, petition or document must be filed within a specified period of time or prior to a specified date or day, it shall be filed with the appropriate city official no later than 4:00PM.

1-017 ANNEXATION OF TERRITORY

All newly annexed properties shall retain the City equivalent to their prior zoning status when taken into the City.

1-018 VESTED RIGHTS

- A. For all subdivision and planned unit development, development rights for land shall vest upon recording of the final plat for such land. If construction of infrastructure has not been completed within five years of recording the plat, the development rights shall expire unless an extension is granted by the Planning Commission.
- B. The Planning Commission may, for good cause as presented by the applicant, grant a single extension of vested rights in a subdivision or planned unit development. Vested rights shall not be extended for more than one year. Applicants seeking an extension shall submit a statement in writing, justifying the extension. In considering an extension, the Planning Commission shall examine the following factors, as well as other relevant considerations:
 1. The undue or unnecessary hardship placed upon the property owner;
 2. Any amendments or changes to the regulations that have occurred since issuance of the permit;
 3. The amount of construction that has been completed;
 4. Estimated period of time needed to complete construction; and

5. Conformance with the general spirit and intent of the zoning and subdivision regulations.
- C. Nothing in this subsection shall be construed to exempt development from the provisions of the Development Regulations except to the extent that the construction or development is expressly shown on the approved final plat or site plan. For example, the right to complete a building in accordance with a previously-approved site plan shall not include the right to erect signs or make other site improvements not shown on the approved plan.
- D. Development rights for individual lots, platted or unplatted, shall vest upon approval of the site plan or development plan for such site and the issuance of all applicable building permits. Building permits shall expire within one year for residential construction and two years for multi-family or commercial construction. An extension may be granted by the Building Inspector only if construction is substantially completed.

1-019 COMPLIANCE WITH DISTRICT PROVISIONS

- A. The regulations set forth in this ordinance shall be interpreted as the minimum allowable and shall apply uniformly to each class or kind of structure or land use, except as hereinafter provided:
 1. No site, lot or parcel of land or part thereof shall hereafter be used, occupied or divided, except in conformity with all the regulations applicable for the district in which it is located.
 2. No building or other structure shall hereafter be erected, constructed, reconstructed, remodeled, moved, or structurally altered except in conformity with all of the regulations and requirements of this ordinance.
 3. No part of a yard or other open space required about or in connection with any building for the purpose of complying with the provisions of this ordinance shall be included as part of a yard or other open space similarly required for any other building.
 4. Every building hereafter erected, enlarged or structurally altered shall be located on a lot as herein defined, and in no case shall there be more than one main building on one lot, unless specifically provided for in these regulations.
 5. No lot of record shall be reduced or diminished in size nor shall the density of population be increased in any manner except in conformity with these Development Regulations for the City of Tonganoxie.
 6. No use of the site shall be commenced and no accessory buildings shall be allowed on a site prior to the construction of a main structure.

7. Lots that were legally created shall remain legal and considered buildable for any purpose allowed within the designated zoning district.
8. Any structure rebuilt or restored after damage or destruction by fire or other casualty shall be considered to be a structure built hereafter, unless Article 21 of these regulations permits such structures to be rebuilt or restored.
9. If a use of any structure is hereafter changed to another, then the new use must comply with the Use Regulations of these zoning regulations, but the mere establishment of the new use does not require the existing structure to conform to the Lot Size Requirements of the Bulk Regulations of these zoning regulations.
10. No building or other structure shall hereafter be erected or altered: to exceed the height of bulk; to accommodate or house a greater number of families; to occupy a greater percentage of lot area; and to have narrower or smaller rear yards, front yards, side yards, or other open spaces than herein required; or in any other manner contrary to the provisions of this ordinance.
11. No lot area shall be reduced or diminished so that yards or other open spaces shall be smaller than prescribed by this ordinance.