

## ARTICLE 23

### DEFINITIONS

#### DIVISION 23.000 PURPOSE

This Article defines words, terms, and phrases found in this Ordinance.

#### DIVISION 23.100 WORD USAGE

This Article's provisions and rules shall be observed and applied when interpreting this Ordinance, except when the context clearly requires otherwise:

- A. Words used or defined in one tense or form shall include other tenses or forms.
- B. Words in the singular number shall include the plural number. Words in the plural number shall include the singular number.
- C. The masculine gender shall include the feminine. The feminine gender shall include the masculine.
- D. The word "shall" is mandatory.
- E. The word "may" is permissive.
- F. The word "person" includes individuals, partnerships, firms, corporations, associations, trusts, and any other similar entities or combination of individuals.
- G. The word "Attorney" shall mean the Paola City Attorney.
- H. The words "Building Code" shall mean the current Paola Building Code.
- I. The word "City" shall mean the City of Paola, Kansas.
- J. The word "City Hall" shall mean the City of Paola City Hall, 19 East Peoria Street, Paola, Kansas, 66071.
- K. The word "Comprehensive Plan" shall mean the Comprehensive Plan of the City of Paola. Depending on the context of the text, a Comprehensive Plan may also refer to the Miami County Comprehensive Plan.
- L. The word "Council" shall mean the Paola City Council.
- M. The words "Planning Commission" shall mean the Paola Planning Commission.
- N. The words "Register of Deeds" shall mean the Miami County Office of Register of Deeds.

- O. The words "Registered Engineer" shall mean an engineer registered in the State of Kansas.
- P. The word AStaff≅ shall mean the City Manager and such other employees or consultants designated by the City Manager.
- Q. The word "State" shall mean the State of Kansas.
- R. The words "Zoning Board" shall mean the Paola Board of Zoning Appeals.

**SECTION 23.110 ABBREVIATIONS**

The following abbreviations are used in this Ordinance:

AASHTO	American Association of State Highway and Transportation Officials
ac.	acre
DBH	diameter at breast height for a tree
du or du's	dwelling unit(s)
FAR	floor area ratio
FEMA	Federal Emergency Management Agency
ft.	feet
GD	gross density
GFAR	gross floor area ratio
LSR	landscape surface ratio
max.	maximum
min.	minimum
na.	not applicable
ND	net density
NFAR	net floor area ratio
OSR	open space ratio
s.f. or sq.ft.	square feet
S.F.	single-family

**DIVISION 23.200 USE DEFINITIONS**

The uses found in Table 03.110 are defined in this Division. Specific uses may be further defined in Division 23.300. If a use is not enumerated in either of these Divisions, see Section 21.320 for interpretations. Any use not specifically listed in Table 03.110 and defined in this Article is expressly prohibited, unless the interpretation is that the use is similar to a permitted use. The Standard Industrial Classification (SIC) codes (as listed in the 1987 manual printed by the Executive Office of the President, Office of Management and Budget) are used to define many uses.

**SECTION 23.210 AGRICULTURAL USES**

- A. **Agriculture.** (SIC 011-017, 019, 021-025, 0272, 0811) These uses include:
  - 1. Farms (with and without farm residences), orchards, aquaculture, and truck farming.

2. The raising or breeding of livestock, cattle, horses, poultry and bees. No more than one (1) animal unit per acre is allowed.
  3. Nurseries that sell only plants. Tree farms, forestry, and nurseries selling gardening or other supplies are not considered agricultural uses under this paragraph.
- B. **Farmstead.** This is a residential-agricultural unit in which the land is used for agriculture and residential purposes by the owner operator of the agricultural operation.
- C. **Intensive Agriculture.** (SIC 0182, 02 part) These uses include:
1. Any agricultural uses such as feed lots, hog farms, and poultry operations where animals are tightly confined in buildings or outdoor pens or pastures with more than one (1) animal unit per acre. Intensive agriculture does not include concentrated confinement of animals attributable to customary livestock practices including but not limited to calving, inoculations, and winter feeding and sheltering.
  2. Greenhouses (wholesale only).
- D. **Clearing.** This use may include:
1. Forestry (SIC 0811) involving the management, harvesting, and use of a forest or woodland, or the clearing of area so that eighty (80) percent of the land shall at all times be in forest or woodland cover. It requires a management plan for the regrowth of the harvested areas; or
  2. Involves the clearing, destruction, and cutting of forested areas in excess of twenty (20) percent for agricultural or other purposes than forestry. Clear cutting, burning, or other methods of eliminating the vegetative cover are included.
- E. **Nursery.** Nurseries and ornamental floriculture (SIC 0181).
- F. **Kennels and Commercial Stables.** The boarding, breeding, training, or selling of domestic dogs or cats. This shall include the keeping of more than four (4) dogs or six (6) cats over the age of four (4) months, or the keeping of a total of more than five (5) dogs and cats. Also, the stabling, training, feeding, of horses or the provision of riding facilities for other than the use of the resident of the property excluding Pet Grooming Services (SIC 0752 and 0273 part).
- G. **Pet Grooming Services.** Establishments primarily engaged in providing ‘pet grooming services’ where animals are not boarded overnight (SIC 0752 part) (Ordinance 2918, 05/23/06)

#### SECTION 23.220 RESIDENTIAL USES

- A. **Single-family Detached.** These are all detached dwelling units constructed on lots and intended for only one (1) family.
- B. **Equestrian.** This form of cluster development provides lots intended to permit keeping horses and providing common open space for equestrian activities such as common pasture, trails, riding rings, or common stables.

- C. **Single-Family Cluster.** These are single-family residential uses that include, as part of the subdivision design, common open space that meets the standards in Section 04.110.
- D. **Single-family Attached.** These are all attached dwelling units including twin, atrium, weak-link and town house types. The unit type permitted and open space standards are specified in Section 04.110.
- E. **Planned.** This describes a development that consists of one (1) or more of the following housing types: single-family, single-family lot line, village houses, duplex houses, patio houses, atrium houses, z-lots, town houses of several types, multiplexes, and apartments. Such developments shall be planned as a unit and shall meet all the open space standards in Section 04.110. The largest percent of dwelling unit type used must be allowed by right in the subject zoning district (Table 3.110A). (Ordinance #2835, 08/26/03)
- F. **Multi-Family.** This use permits apartments only.
- G. **Commercial Apartment.** This is from one (1) to four (4) dwelling units located above, along side, or to the rear of a nonresidential structure on the same lot.
- H. **Manufactured Home Park.** A parcel of land divided into two (2) or more manufactured home lots for lease or sale. This use also includes a parcel of land divided into two (2) or more manufactured home lots for sale. All single-wide manufactured homes shall be in manufactured home parks.
- I. **Group Home.** A group home is a building that would otherwise be categorized as a single-family home, except for the fact that the number of unrelated individuals living in the unit does not qualify under the definition of family. The operation of a group home shall be a family living environment, not an institutional environment where staff manages the living and controls activities. If the unit would otherwise qualify as other types of dwelling units defined in this Ordinance, such as apartment or attached housing, then the use shall be treated as such. Co-ops, nursing homes, other institutional residential, and boarding house type of operations are expressly excluded since these are institutional or commercial lodging uses.

#### **SECTION 23.230 INSTITUTIONAL USES**

- A. **Assembly and Worship.** This use includes museums, aquariums, cultural or arts centers, conference centers (with no lodging), and churches with schools (except Sunday schools occupying no more than fifty [50] percent of the floor area) as part of the complex.
- B. **Institutional, Community.** Libraries, public or private junior high and high schools without residential living facilities (SIC 8211 part), child care (SIC 8351), and all other public or private indoor institutional uses.
- C. **Institutional, Neighborhood.** These uses include cemeteries, churches having less than fifteen thousand (15,000) square feet of floor area, day care centers (day or nursery schools), public or private elementary schools (SIC 8211 part), and all other public or private indoor institutional uses serving the neighborhood. Except for elementary schools, there is a maximum size and scale permitted to ensure it is neighborhood scaled.

- D. **Hospitals.** General medical and surgical hospitals (SIC 8062) and specialty hospitals (SIC 8064) except alcoholism, drug, rehabilitation from those problems.
- E. **Colleges.** Colleges, universities, and professional schools (SIC 8221); other advanced education (SIC 8222).
- F. **Institutional, Residential.** (SIC 805, 808, 836) These uses include:
  - 1. Convents, monasteries, and nursing homes.
  - 2. Sheltered care facilities or group living facilities where the residents live in an institutional environment and are generally under the care or control of staff. All sheltered care, group care, group homes, and residential substance abuse facilities where total occupancy is more than eight (8) shall be considered institutional residential use. The residents would be members of an institution, or would have institutional care, or would be treated by staff in an institutional setting rather than living independently. Drug and alcoholism hospitals and rehabilitation (SIC 8064 part).
  - 3. Institutional housing where there is commercial rental or condominium ownership combined with any of the following: common food service, nursing, or health care.
  - 4. Dormitories, fraternities, sororities, or co-ops.
  - 5. Schools with live-in facilities on site, other than universities, colleges, or preparatory schools (SIC 8211 part, 8222 part).
- G. **Protective Care.** (SIC 9223, 8744 part) This is housing where the residents are assigned to the facility and are under the protective care of the city, county, state, or federal government. This use includes jails, prisons, work release, other similar facilities, and psychiatric hospitals (SIC 8063).
- H. **Public Service.** These uses include emergency service, buildings, or garages (e.g., ambulance, fire, police, rescue), conservation agencies, and postal service buildings except major distribution centers (SIC 431 [part], 9221, 9222, 9512) where vehicles are stored and dispatched (Office uses are under Section 23.240).
- I. **Utilities, Local.** (SIC 49 [part]) Utility substations or transmission and local distribution facilities, including telephone, and all government-owned utilities. Generation, storage of combustibles, and regional facilities and landfills or mining facilities are not included here; see Division 23.270.

## SECTION 23.240 COMMERCIAL USES

- A. **Office.** Office uses include:
  - Accounting services (8721)
  - Banking and other credit agencies (offices only) (SIC 60, 61)
  - Security, commodity brokers and services (SIC 62)
  - Insurance carriers, agents, brokers, and service (SIC 63, 64)
  - Real estate (SIC 65)
  - Holding and other investments (SIC 67)

Business services (SIC 73)  
Health services (SIC 801-804, 807)  
Legal services (SIC 81)  
Social services (SIC 83) (except care facilities SIC 835-836)  
Membership organizations (SIC 86)  
Miscellaneous services (SIC 89)  
Engineering and management services (SIC 87)  
Agricultural support and services (offices only) (SIC 07)  
Governmental offices (SIC 91-97 excluding 9223, public service)

B. **Shopping Center.** A group of commercial retail, service, and other commercial uses, located in a single planned unit and having minimal exterior activities.

C. **Commercial Retail.** Commercial and retail uses include the following, provided no general storage or sales occur on the exterior on a regular basis and/or exceed five (5) percent of the interior floor area:

Paint, glass, wallpaper, hardware (SIC 523, 525)  
General merchandise stores (SIC 53)  
Food stores (SIC 54)  
Apparel and accessory stores (SIC 56)  
Home furnishing (SIC 5714, 5719), floor covering except carpets (SIC 5713) Cabinets (SIC 5211 part)  
Consumer electronics (SIC 573)  
Restaurants (SIC 58)  
Miscellaneous retail, including: art, gifts, sporting goods, drug stores, liquor, books, toys, camera stores (except fuel dealers) (SIC 59)  
Garden centers  
Video rental (SIC 7841)  
Movie theaters (SIC 7832)  
Bars and taverns

D. **Home Furnishing & Appliances.** Furniture and home furnishings stores (SIC 5712), household appliances (SIC 5722), and carpet stores (SIC 5731 part).

E. **Light Automobile Service.** This includes:

1. Gasoline service stations, gas-convenience marts, and quick service oil, tune-up, brake, and muffler shops where repairs are made in fully enclosed bays, the repairs are completed in less than two (2) hours, and no vehicles are stored overnight (SIC 75 part). A single-bay car wash associated with a gas convenience mart is permitted.
2. Auto malls with a number of the uses as listed in E.1. contained in a single building. When the total floor area is greater than thirty thousand (30,000) square feet, car washes shall be permitted as part of the mall.

F. **Services.** These uses include a wide variety of personal and commercial services. This category does not include those services for customers in vehicles, such as a drive-in banking facility.

Business services (excluding outdoor advertising services, disinfecting, and pest control services, and heavy construction equipment rental and leasing) (SIC 73)  
Personal services (Excluding Crematories) (Ordinance 2893 08/23/05) (SIC 72)  
Hospitals and medical laboratories (SIC 806-807)  
Miscellaneous repair services and shops (SIC 76)  
Educational services (SIC 824, 829)  
Health and exercise; dance studios (SIC 7991, 7911)

- G. **Drive-in Facility.** These uses include all drive-in establishments providing service to customers in vehicles: drive-in restaurants, banking facilities; other uses with drive-up windows where the drive-up facility is the principal use and not an accessory use.
- H. **Hotels and Motels.** (SIC 701 & 704) These uses include hotels, motels, including those with convention facilities and facilities that cater to members of the organization owning them.
- I. **Boarding House.** (SIC 702) This is a lodging facility having less than eleven (11) rooms for rent for short or long periods.
- J. **Bed and Breakfast.** (SIC 7011 part) This is any place of lodging that provides five (5) or fewer rooms for rent, is the owner's personal residence, and is occupied by the owner at the time of rental.
- K. **Heavy Retail and Service.** These are retail and/or service activities that have regular exterior service or storage areas or partially enclosed structures as listed below. For new and used vehicle sales, all vehicles must be operable and in road/water ready condition.
- Any commercial retail use (Section 23.240 B.) having exterior activities  
Lumber and other building materials (SIC 521)  
Automobile, boat, motorcycle, recreational vehicle dealers, auto repair (SIC 55 also see Section 23.240 E.)  
Vehicle repair services & parking (SIC 751, 752, 7532, 7536, 7538, 7539, 7549; also see Section 23.240 E.)  
Car washes (SIC 7542 except as in Section 23.240 E.)  
Fuel dealers (SIC 598)  
Greenhouses (retail) and greenhouses with garden supplies (SIC 526)  
Mini warehouses (SIC 4225)
- L. **Agricultural Support and Services.** This use includes farm supply services, equipment dealers, grain storage, veterinary uses (SIC 0741).
- M. **Mixed Use.** This is:
1. A building containing two (2) or more use categories with five (5) or more residential dwelling units comprising a minimum of twenty (25) percent of the floor area.

2. A building or group of buildings arranged around a pedestrian precinct, containing four (4) or more uses including: commercial retail, commercial lodging, office, service, residential, institutional, or exhibition center. Residential shall be one of the uses.

## SECTION 23.250 AMUSEMENT AND RESORT USES

- A. **Outdoor Recreation.** These uses include:
1. Public areas (open to community or development residents) for active recreational activities including, but not limited to: jogging, cycling, tot-lots, playing fields, playgrounds, outdoor swimming pools, and tennis courts (SIC 7999 part); golf courses, (full-sized (nine [9] holes, regulation length) regardless of ownership (SIC 7992) and membership golf, country, and shooting clubs (SIC 7997).
  2. Passive recreational uses including, but not limited to: arboretums, wildlife sanctuaries, forests, areas for hiking, nature areas, and other passive recreation-oriented parks.
  3. Picnic areas, garden plots, and beaches.
  4. Fairgrounds as defined by this Ordinance. (Ord. 2990 05/26/09)
- B. **Indoor Recreation.** This use includes:
1. Recreational uses that are public (open to community or development residents) including community recreation centers, gymnasiums, indoor swimming pools, or tennis, racquetball, or handball courts (SIC 7999 part).
  2. Specifically excluded are health and exercise clubs (SIC 7991) and uses listed as commercial amusement uses.
- C. **Commercial Amusement, Outdoor.** (SIC 7833, 7929, 794, 7996, 7997, 7999) This use includes, but is not limited to: fairgrounds, outdoor stadiums, racing facilities, rodeos, music arenas, theme parks, amusement parks, miniature golf establishments, water slides, batting cages, and shooting ranges.
- D. **Commercial Amusement, Indoor.** (SIC 7832, 792, 793, 7941, 7993, 7997, 7999) This use includes, but is not limited to, all indoor commercial amusement facilities: bowling alleys, indoor sports arenas, movie theaters, indoor skating rinks (ice or roller), video arcades, pool halls, and shooting arcades.
- E. **Campgrounds.** This is a form of commercial lodging where guests bring tents, travel trailers, campers, or other similar forms of shelter. The campground rents pads to the guests.
- F. **Resorts.**
1. This use applies only to resorts or commercial lodgings which are located and designed with some combination of recreational uses or natural areas that provide a minimum of seventy-five (75) percent open space on the site.
  2. Such uses shall provide a full range of recreation opportunities such as marinas, beaches or pools, tennis or golf, equestrian, or other special recreation opportunities.
  3. Such uses shall contain several restaurants and shops to serve the guests.

- G. **Fairgrounds.** This is a place where the County Fair is held, as well as utilized as a meeting hall for social, fraternal, civic, public and similar organizations. It may also be utilized as an event venue for spectator and non-spectator field events and activities such as concerts, tractor pulls, rodeos, circuses, festivals, arts and craft shows, family reunions, wedding receptions and similar receptions, and other community-related arts, cultural, agricultural, and educational activities. Any such activities are permitted uses of the fairgrounds and exempt from the requirement of obtaining a Special Use Permit as set forth in §03.337 Special Events. (Ord. 2990 05/26/09)

#### **SECTION 23.260 HOME USES**

- A. **Home Occupations.** This refers to any service, professional, or art occupation which is customarily, in whole or in part, conducted in a residence, which does not change the essential character of the residential use. A maximum of two employees, not including family members, are permitted. No commercial vehicles are permitted. No stock and trade are permitted. No merchandising equipment is permitted except as customary for domestic or household purposes.
- B. **Day Care, Family.** Home day care, family uses providing for no more than five (5) unrelated children or adults. Day care providing for six (6) or more unrelated children are day care *centers*. See Section 23.230.

#### **SECTION 23.270 INDUSTRIAL USES**

- A. **Light Industry.** This use includes manufacturing, transportation, and wholesale uses where all operations are inside the building, where there is up to 5,000 sq. ft. of exterior storage, except as may be expanded as provided in Section 03.312, and where the maximum building size is two hundred thousand (200,000) square feet or more. This includes the following uses, except where the use produces emissions exceeding sixty (60) percent of Kansas standard:

General building contractors (SIC 15)  
Special trade contractors (SIC 17) (except storage of any equipment that is more than twelve [12] feet in height)  
Food products (SIC 20) (except SIC 2011,2015,2077, & 2082-2085 other than micro-breweries)  
Textiles and apparel (SIC 22 & 23)  
Furniture and fixtures (SIC 25)  
Printing and publishing (SIC 27)  
Office and computing machines (SIC 357)  
Electric and electronic equipment (SIC 36) (except electronic distribution and electrical industrial [SIC 361 & 362])  
Instruments and related products (SIC 38)  
Miscellaneous manufacturing industries (SIC 59)  
Transportation services (SIC 47)  
Communications (SIC 48)  
Wholesale trade durable and nondurable (SIC 50&51) (except farm products [SIC 515])  
Mini-warehouses (part SIC 4225)  
Regional utility substation or distribution station (SIC 491, 492) on at least two (2) acres or more

A use otherwise classified as a junkyard occurring in a fully enclosed building (Ordinance 2845 03/10/04).

B. **Heavy Industry.** This category includes construction, mining, manufacturing, transportation, and public utilities due to the land use intensity impacts typically associated with large industrial uses, their accessory outdoor storage uses, and large building areas.

1. All light industrial uses that require outdoor storage or which exceed five thousand (5,000) square feet except as may be expanded as provided in Section 03.312 (Ordinance 2845 03/10/04).
2. Any light industrial use not meeting the noise, odor, vibration standards, or producing emissions that exceed sixty (60) percent within or adjoining the building shall also be considered a heavy industry regardless of use.
3. The following uses are permitted:

Heavy construction contractors (SIC 16)  
Meat products (SIC 201)  
Alcoholic beverages (SIC 2082-85)  
Stone, clay, and glass products (SIC 32)  
Steel mills, foundries, smelter (SIC 33)  
Trucking and warehousing (SIC 42)  
Transportation equipment (SIC 37)  
Utility--production or processing facilities, but not office or transmission or distribution (SIC 49)  
Welding, sheet metal, blacksmith (SIC 76)

C. **Warehousing.** This category includes all warehousing (SIC 42 except mini or self storage warehouses) that is not incidental to a manufacturing facility and occupying less than twenty-five (25) percent of the total floor area.

D. **Utilities, Community/Region.** This use includes generation, storage of combustibles, and regional facilities, such as regional switching stations, pump storage, and other facilities not housed inside normal buildings (SIC 49 part).

E. **Extraction.** This category includes extraction uses such as mining and quarrying and any other extraction use (SIC 14).

F. **Recycling or Storage.** This use includes any land or structure used for salvaging, recycling, junkyards, or storing of waste paper, rags, scrap metal, and discarded materials and the collection, dismantlement, storage, and salvage of two (2) or more inoperative vehicles, automobiles, boats, trucks, or farm vehicles or equipment, or other types of machinery. This includes the aggregate storage of manmade equipment, machinery, scrap, or other used materials having a total cubic volume of seven hundred (700) cubic feet. Where there is no exterior storage, and all the material is stored inside buildings with impervious floors, the use shall be considered light industry.

- G. **Disposal.** This category includes disposal uses such as: sanitary landfills, sludge disposal or storage; resource recovery facilities; energy recovery or generating from waste material; and any other form of waste management facilities (SIC 4953 excluding disposal of radioactive waste materials, all of which are prohibited). Sewer facilities are regulated as utilities.

#### **SECTION 23.280 SPECIAL USES**

- A. **Airports.** This use includes all airports (SIC 45), including those for the private use of an individual and those used by ultra-light aircraft.
- B. **Commercial Communication Towers.** This category includes radio or television broadcasting towers, telecommunications towers, and antenna arrays (except residential satellite dishes).

#### **SECTION 23.290 TEMPORARY USES**

- A. **Christmas Tree Sales.** Outdoor sale of evergreen trees during the Christmas holiday season.
- B. **Contractor's Office.** This includes watchman's trailers, construction equipment sheds, contractor's trailers and similar uses incidental to a construction project. Sleeping and/or cooking facilities may also be permitted.
- C. **Outdoor Sales.** Outdoor sales of merchandise, by either the store owner/occupant, outside the store in question on either the public sidewalk, a private sidewalk, or pedestrian area. It also includes sales in the Paola Square. This use excludes sales associated with a public interest or special event.
- D. **Public Interest Event.** Outdoor gatherings, auctions, art sales, and bake sales for the benefit of the community or community service or non-profit organizations.
- E. **Special Event.** These events may include, but are not limited to, outdoor concerts, auctions, tractor pulls, carnivals, circuses, outdoor religious meetings, rodeos, and special entertainment at commercial properties. Such uses often travel to various communities or involve noisy events regardless of purpose. Only events that are not related to the primary use of the property require compliance with §03.337. For example, a wedding or wedding reception occurring at a church is related to the primary use of the property and would not require a Special Use Permit. (Ord. 2990 05/26/09)
- F. **Model Homes/Sales Office.** A dwelling unit in a subdivision used as a sales office, or a modular unit used as a sales office for a subdivision.
- G. **Farmstand.** This is a temporary structure or vehicle used in the sale of agricultural produce, in season, at least fifty (50) percent of which is grown by the seller.
- H. **Concrete/Asphalt Batch Plant.** A concrete or asphalt batch plant assembled on a site for the construction of a particular road improvement. The location of the site shall be a condition of the permit.

- I. **Truck Load Sale.** This use includes those activities which bring goods to a retail use in trucks and sell that merchandise from the trucks or a temporary outdoor or tented sales area.

#### **DIVISION 23.300. DEFINITIONS**

This Division contains the definition of words used in this Ordinance.

**Abutting.** Two lots sharing the same, or common, property lines, including lots separated by an alley. See Figure 23.301.

**Abandonment.** That the use, structure, or sign is not used, occupied, or otherwise operating for the intended nonconforming activity for the period specified in Section 09.320. Periods of active remodeling during which the use is closed for repairs do not count, provided the remodeling is completed within a reasonable time period as indicated on the zoning permit issued for remodeling nonconforming use. Abandonment of signs shall mean having electricity disconnected for lighted signs, no message, or the failure to repair damaged signs.

**Access.** An area designated as a way for vehicles to enter or leave a property or lot to a public or private street or alley. Access is intended to permit residents to bring their vehicles onto the property, customers or tenants to park, and provide for public access in emergencies. See Figure 23.301.

**Accessory Building or Use.** A building or use that contributes to, and is subordinate and secondary to, the principal building or use in function and area. It provides comfort, convenience, and necessities to the principal building or use. It shall be on the same lot as the principal building. See also *Principal Building or Use*.

**Active Recreation.** Recreational uses, areas, and activities oriented toward potential competition and involving special equipment. Playgrounds, sports fields and courts, swimming pools, picnic areas, and golf courses are examples of active recreation uses. Also see *Passive Recreation*.

**Addition.** Any construction which adds or enlarges the size of an existing building. Additions also include any extension or increase in floor area or height of a building or structure. Examples of an addition are: a porch, carport, new room, roof configuration, etc. Also see *Conversion, Building or Use* and *Structural Alteration*.

**Alley.** A secondary means of ingress and egress serving more than one (1) tract of land and used primarily for vehicular service, and which may be used for public utility purposes. Alleys are not maintained by the City and are normally located adjacent to the rear of property lines.

**Alteration.** See *Addition, Conversion, Building or Use, or Structural Alteration*.

**Amortization.** Process by which nonconforming signs are required to be discontinued or made conforming within a specified period of time.

**Animal, Dangerous.** Any mammal, amphibian, reptile, or fowl which is wild by nature and of a species which, due to size, vicious nature, or other characteristics would constitute a danger to human life, physical well-being, or property including, but not limited to: lions, tigers, leopards, panthers, bears,

raccoons, skunks, wild and exotic cats, any animal having poisonous bites, wolves, apes, gorillas, monkeys of a species whose average adult weight is twenty (20) pounds or more, foxes, elephants, alligators, crocodiles, rats, and snakes which are poisonous or otherwise present a risk of a serious physical harm or death to human beings as a result of their nature of physical makeup, including all constrictors. Any dog or cat having a disposition or propensity to attack or bite any person or animal without provocation is a dangerous animal. For purposes of these regulations, where the official records of the City Clerk indicate that a dog or cat has bitten any person or persons or animal on two (2) or more separate occasions, it shall be prima facie evidence that said dog or cat is a dangerous animal. (Ordinance 2799, 06/11/02)

**Animal, Domestic Exotic.** A domesticated animal that is native to a foreign country or of foreign origin or character, is not native to the United States, or was introduced from abroad". (Ordinance 2799, 06/11/02)

**Animal, Farm.** A domestic animal typically associated with agricultural uses, including any domestic species of cattle, sheep, swine, goats, llamas, horses, poultry or other animal, which are normally and have historically, been kept and raised on farms in the United States. (Ordinance 2799, 06/11/02)

**Animal Unit.** A measure which defines the carrying capacity of land for domestic or farm animals. The animal unit represents the number of animals that can be supported (the carrying capacity) on one (1) acre of land and is related to the amount of feed various species consume and the amount of waste they produce. Table 23.301 lists the number of common farm species which comprise a single animal unit.

<b>Table 23.301 ANIMAL UNITS</b>	
<b>Type of Livestock</b>	<b>No. Animals Per Animal Unit</b>
Horse (2 years or older)	2.4
Colt (under 2 years)	4.9
Cattle (2 years or older)	2.4
Cattle (1 to 2 years)	4.9
Calves (under 1 year)	9.8
Brood Sow or Boar	6.1
Hogs (up to 99.8 kilograms)	12.3
Sheep	17.3
Lambs	34.5
Chickens	494.0
Other Poultry	494.0
<i>Source: The Stockman's Handbook</i>	

**Apartment.** A multi-family dwelling unit contained in a building comprised of three (3) or more dwelling units, each having an entrance to a hallway or balcony in common with at least one (1) other dwelling unit. See Figure 04.110.

**Appeal.** A way to obtain review of a decision, determination, order, or act of an administrative agency pursuant to the terms of this Ordinance.

**Applicant.** The government agency, utility company, contractor, developer, or individual seeking approval of a permit or other approval from the City of Paola or other agency having authority to issue the permit or approval in Paola.

**Arterial Street.** A highway intended to carry a mix of regional and local traffic. It provides access to regional and community scaled land uses. It should be anticipated to ultimately require a minimum of four (4) traffic lanes. See Figure 11.120 for streets designated as arterial streets.

**Atrium House.** An attached, one (1) story dwelling unit with private individual access for a single family. Each unit shall have a private yard called an atrium. The entire lot area of atrium and house shall be

enclosed by a wall. All living spaces (that is, living rooms, dens, or bedrooms) shall face an atrium. See Figure 04.110.

**Attic.** The area between roof framing and the ceiling of the rooms below and that is not habitable, but may be reached by ladder and used for storage or mechanical equipment. Improvement to habitable status shall make it a story.

**Auto-Urban Character.** See the City of Paola Issue Paper No. 2, dated August 10, 1995.

**Awning or Canopy.** A structure partially attached or entirely supported by a wall and which is covered by canvas, cloth, plastic, other similar material, used as a protective cover for a door, entrances, window, walkway, or service area.

**Banner.** A non-illuminated, elongated plastic, metal foil, fabric, or other flexible material, sign, or string of flags or pennants that is usually temporary or semi-permanent. See also *Flag*.

**Base Flood.** The 100-year flood, the base flood, is a measure of flooding of a specific magnitude used as a standard in the National Flood Insurance Program. The base flood has a one (1) percent chance of occurrence in any given year. The depicted one (1) percent chance flood has one (1) chance in one hundred (100) of being equaled or exceeded in any future one (1) year period.

**Base Site Area.** A calculated area obtained by subtracting various land areas from the gross site area. See Section 05.120.

**Basement.** The lowest level or story of a structure which has its floor below grade and which is at least fifty (50) percent below the average finished grade of the building, and does not permit direct access to the outside.

**Benchmark.** A definite point of known elevation and location and of more or less permanent character. The identity and elevation shall be based on United States Geological Survey (U.S.G.S.) Data.

**Block.** A piece of land surrounded on all sides by streets or other transportation rights-of-way or by physical barriers such as water bodies or public open spaces. Blocks are normally divided into lots. See Figure 23.302.

**Bufferyard.** A strip of land on the periphery of a property, created to separate one type of land use or zoning district from another when they are incompatible or in conflict. Bufferyards include street bufferyards that protect the use from road related nuisances or screen undesirable uses. See Figure 23.303.

**Buffer, Waterbody.** See *Waterbody Buffer*.

**Buffer, Lake Miola Waterbody.** See *Waterbody Buffer, Lake Miola*.

**Buildable Area.** The space remaining on a lot after the minimum open space or landscape surface requirements, bufferyards, and setbacks have been met. See Figure 23.304 and *Net Buildable Site Area*.

**Building.** A structure built on a lot, having a roof and intended to shelter people, animals, property, or business activity. Any structure used or intended to be used for supporting or sheltering any use or occupancy. The word *building* shall be construed as if followed by the words "or part or parts thereof and all equipment therein."

**Building Code.** See Division 23.100.

**Building Front.** That exterior wall of a building which faces the front lot line.

**Building Height.** See *Height, Building*.

**Building Line.** That line formed by the rear, side, and street setbacks. Also see *Buildable Area*.

**Building Volume Ratio (BVR).** The building volume ratio is calculated as follows:

$$\text{Building Volume Ratio} = \frac{\text{Bv} + \text{Pv} + \text{Lv} + \text{Sv}}{(\text{lot area}/10)}$$

Where: Bv = Total volume of the building measured at the exterior walls and roof including all mechanical enclosures.

Pv = Total area of parking lots multiplied by five (5) feet.

Lv = Total area of loading docks not within the building multiplied by twelve (12) feet.

Sv = Total area of exterior storage multiplied by the maximum height of the materials to be stored or any fence or wall whichever is greater.

**Bulk Regulations.** Controls which establish the maximum size (in total square feet), height, and setback of a building on its lot. Bulk regulations maintain compatibility and pleasing appearance of all buildings. They ensure enough light, air, and open space on the ground and all levels of the building.

**Caliper.** The size of new landscape plantings measured six (6) inches above ground. See *Diameter at Breast Height*.

**Candlepower.** The amount of light that will illuminate a surface that is one (1) foot distant from a light source to an intensity of one (1) footcandle. Maximum (peak) candlepower is the largest amount of candlepower emitted by any lamp, light source, or luminaire.

**Canopy Tree.** See *Tree, Canopy*

**Capacity.** When referring to off-street parking requirements, this means the maximum number of persons which may be accommodated by the use as determined by its design or by applicable building codes, whichever is greater.

**Certificate of Occupancy.** An official certification indicating that a use or building (as built) conforms to the provision of this Ordinance and may be used or occupied.

**Clearcutting.** The practice of wholesale, complete removal of all trees, disturbing shrubs, or other vegetation in the process. This definition does not include the selective removal of trees on a building pad or normal maintenance of vegetation.

**Cluster Development.** A development pattern or design technique in which lots are grouped together rather than spread evenly throughout a parcel as in conventional subdivision development. Cluster development allows the remaining land to be used for recreation, open space, and the preservation of natural resources. See Figure 23.305.

**Cluster Lot.** A detached single-family lot located within a "cluster" development as permitted in Articles 3 and 4. Also see Figure 23.305.

**Collector Street.** A street intended to provide access to nonresidential land uses, collect traffic from local streets, and convey traffic to higher levels of streets and highways. See Figure 11.120 for streets designated as collector streets.

**Collector, Residential.** A street intended to gather traffic from local residential streets and convey it to higher level streets. It serves more than 240 dwelling units. It is not intended to serve individual residential lots. It is found only in residential areas or developments. Note that new developments may create such streets.

**Commercial Use.** Any use, occupation, employment, or enterprise, other than residential, carried owner, lessee, or licensee of a structure.

**Common Land.** That land set aside for open space, including stormwater, retention lakes, ponding, or recreational use for the owners of lots in a subdivision, which land is conveyed in trust for the benefit, use, and enjoyment of the lot owners.

**Community Character.** See the City of Paola Issue Paper No. 2, dated August 10, 1995.

**Community Growth Area.** The unincorporated area established pursuant to the Interlocal Agreement between the City of Paola and Miami County in which this Ordinance controls land use and subdivision.

**Condominium.** The ownership of a single unit in a multi-unit project together with an undivided interest in common in the common areas and facilities of the property. (Ordinance 2994, 07/28/09)

**Condominium Project.** A plan or project whereby two or more units, together with an undivided interest in the common area or facility, are separately offered or proposed to be offered for sale. This definition shall apply to existing or proposed apartments, attached single family housing, commercial or industrial buildings, or structures. Condominium project shall also mean the property when the context so requires. (Ordinance 2994, 07/28/09)

**Conflict of Interest.** Any member of an administrative body having an interest which might influence their vote on a particular proceeding. Conflicts of interest include, but are not limited to, financial, personal, or family relationship to the applicant or a party that was legally noticed as to the proposed action.

**Conservation Easement.** A portion of a lot that is covered by an easement, running in favor of the City of Paola, providing that such land shall be left in a natural state or open space access easement. The area of the lot exclusive of the easement shall meet the minimum lot area requirements of Article 4.

**Conversion, Building or Use.** The process by which the original use of a building or land is changed to a different use. See also *Addition* and *Structural Alteration*.

**Copy.** The wording on a sign surface in either permanent or removable letter form.

**Copy, Changeable.** A sign message where the copy may be changed, manually or electrically.

**Cul-de-Sac.** A short, independent, minor street having only one (1) point of ingress and egress, terminating in a circular turn-around or other approved termination.

**Cut-off.** The point at which all light rays emitted by a lamp, light source, or luminaire are intercepted by a shield preventing their continuation. For signs, the term *cut-off* simply refers to the use of shields to direct the light so light rays shine exclusively on the sign.

**Cut-off Angle.** The angle, formed by a line drawn from the light source to the ground and a line perpendicular to the ground from the light source, above which no light is emitted.

**Cut-off-type Luminaire.** An outdoor lighting fixture, or luminaire, with shields, reflectors, or refractor panels which direct and cut off the light at an angle that is less than ninety (90) degrees. See Figure 12.520.

**Day-Night Level (DNL).** A measure of noise that is an outdoor, day-night average A-weighted sound level.

**Dedication.** The transfer of private property to public or common ownership for a public purpose. The transfer may be in fee simple interest or less than fee simple interest including easements. Dedication requires the acceptance of the interest to be complete.

**Density.** The average number of dwelling units allowed on an acre of land. It may also measure the families, housing units, rental rooms, or persons. For example, Figure 23.306 shows two types of land uses on an acre of land. The first shows a density of three (3) homes per acre. The second shows a density of twenty (20) apartment units per acre.

**Density, Gross (GD).** The total number of dwelling units on a site divided by the base site area. See Figure 23.307.

**Density, Net (ND).** The number of units per net buildable area of the site. See Figure 23.307.

**Detention.** The temporary storage of the differential runoff, between pre-developed and developed conditions, of stormwater by the provision of permanent facilities, such as dry reservoirs, ponds, wetlands, or other acceptable facilities.

**Developer.** That person, firm, or corporation by whom a tract will be subdivided and improved pursuant to the requirements of this Ordinance.

**Development.** Any of the following shall constitute development:

1. The construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any buildings, structures, or accessory structures.
2. Any use or change in use of any buildings or land.
3. Any extension of any use of land.
4. Mining, dredging, filling, grading, paving, excavation, or drilling operations.
5. The storage, deposition, or extraction of materials; or public or private sewage disposal systems or water supply facilities; for which permission may be required pursuant to this Ordinance.

**Diameter at Breast Height (DBH).** A measurement of the size of tree equal to the diameter of its trunk measured four and one-half (4.5) feet above the adjacent natural grade. See also *Caliper*.

**Dog Kennel/Breeder.** See Section 23.210.

**Domestic Animals.** The normal farm animals and house pets. Wild animals, birds, reptiles or other species are expressly excluded. The keeping of all rare, threatened and endangered species without proper licenses is a crime.

**Dormitory.** A building with many rooms providing sleeping and living accommodations for a number of usually unrelated persons; usually associated with an educational institution. See Section 23.230 F.

**Downzoning.** Any amendment to the Zoning Map or text of this Ordinance that meets the following criteria constitutes a downzoning for the purposes of the Interlocal Agreement between the City and Miami County to establish the City's Community Growth Area:

1. Any zoning amendment involving a development of regional impact which would result in the reclassification of land from office or industrial use to a residential use.
2. Any zoning amendment involving a development of regional impact which would result in a reclassification of land from office or industrial use to a fast food, convenience commercial, automotive service or sales, gas or service station use, or neighborhood or local shopping center.
3. Any zoning amendment involving reclassification of land within a one-mile radius of the County airport from industrial or office use to residential or from agriculture to residential.
4. Any zoning amendment altering standards of access to arterial or collector roads.
5. Any zoning amendment altering standards intended to protect water supply lakes.
6. Any variation involving conditions 1. through 5. above.

**DNL.** See *Day-Night Level*.

**Drainage.** The process by which surface water (usually from rainfall) moves across the land surface. See *Stormwater Management*.

**Drainage Facility.** Any system of artificially constructed drains, including open channels and separate stormwater sewers, used to convey stormwater, surface, or ground water, either continuously or intermittently, to natural water courses.

**Drainageway.** A watercourse identified by the presence of an intermittent flow, or a swale whose drainage area is a minimum of two (2) acres and for which no floodplain is mapped. Manmade drainage or irrigation ditches shall be included as drainage. The drainageway shall constitute that area, as defined on both sides of the actual drainage course, which is a fixed distance on either side of the centerline of the watercourse.

First order watercourse	15 feet
Second order watercourse	25 feet
Third order or greater watercourse	50 feet

**Duplex.** A form of multifamily dwelling with no more than two (2) units per structure, located one (1) over the other.

**Dwelling.** Any building, or portion thereof, used exclusively for human habitation, except hotels, motels, or house trailers.

**Dwelling, Attached.** Two (2) or more dwelling units in a single structure or attached structures, each of which could have a single lot, which are separated from each other by a dividing wall. Such units may be side-by-side, back-to-back, or both. This includes two (2) family dwellings.

**Dwelling, Multiple Family.** A building designed for or containing more than one (1) dwelling unit, sharing access from a common hall, stair, or balcony.

**Dwelling, Single-Family Detached.** A dwelling unit designed for and occupied by not more than one (1) family and having no roof, wall, or floor in common with any other dwelling unit. Such dwelling units also include the conventional single-family dwelling unit type.

**Dwelling Unit.** A room or group of rooms that provide, or are intended to provide, living quarters for not more than one (1) family. A dwelling unit may be a building or portion thereof which contains two (2) or more rooms, including a bathroom, and an area providing stove and/or oven, and sink (a kitchen) which need not be a separate room.

**Easement.** A right or authorization from a property owner to another for a specific and limited use of his property. For example, a property owner may give or be compensated for a small portion of his property to allow installation of power lines or pipelines or to allow access to another property. See *Conservation Easement*.

**Engineer.** An engineer licensed in the State of Kansas. Unless otherwise indicated, it would be a civil engineer with the appropriate specialty.

**Erosion.** The wearing away of soil or rock fragments by water, rain, wind, or earth gravity.

**Escrow Agent.** A title company, bank, savings and loan association, trust company, attorney, or any other person or agency approved by the City Attorney to act as escrow agent.

**Essential Access.** An access that must cross a resource restricted area, such as a wetland or steep slope, to reach an area of the site that is otherwise buildable, and would result in damage to the restricted resource.

**Exterior Storage.** Outdoor storage of fuel, raw materials, products, equipment, and other materials used in industrial activities. Retail or wholesale sales areas, or product storage including automobile sales areas, building materials, lumberyards, or similar uses. Exterior storage includes all building materials or waste or scrap materials stored outdoors. Truck trailers held on the site for more than a night storing materials or awaiting pick-up shall be considered exterior storage. In the case of truck terminals, exterior storage includes all trucks, truck beds, and truck trailers that are not involved in active loading.

**Facade.** The elevational surface of a building.

**Family.** One (1) or more persons related by blood, marriage, adoption, or guardianship, or not more than five (5) persons not so related, occupying a dwelling unit and living as a single housekeeping unit. Fraternities, sororities, and other social or institutional residential units are excluded.

**Farm.** The land, buildings, structures, and machinery which are primarily adapted and used for agricultural purposes.

**Fascia.** A band located at the top edge of a building but below the actual roofline and above the building wall. Fascia material is often of a different type than either the actual roof or the building wall.

**Fence.** A barrier of posts, wire, rails, boards, metal sheets, masonry, or other material which is used as a boundary or means of protection or confinement.

**Filling.** The depositing on land, whether submerged or not, of sand, gravel, earth, or other materials. Biodegradable materials and other materials subject to decomposition or significant settling (such as garbage and other organic matter) shall not be considered filling. See *Landfill*.

**Filling Station.** Gasoline service stations, gas convenience marts, and quick service oil, tune-up, brake, and muffler shops where repairs are made in fully enclosed bays, the repairs are completed in less than (2) hours, and no vehicles are stored overnight (SIC 75, part). A single-bay car wash associated with a gas convenience mart is permitted. See *Gas Service Station* and Section 23.240.

**Flag.** Device generally made of flexible materials, such as cloth, paper, or plastic, and displayed individually on poles or as groups on poles, strings, or wires. See also *Banner*.

**Flag Lot.** A tract of land having insufficient lot width along a road or at the minimum setback line to meet Article 04 requirements but with sufficient area to meet all lot requirements further back on the lot. The area to the rear shall meet the minimum lot area requirements. See Figure 23.308.

**Flood Fringe.** Those portions of the floodplain, outside the floodway, subject to inundation by the 100-year recurrence interval flood and generally associated with standing or slowly moving water rather than rapidly flowing water.

**Floodplain.** Land which is covered by flood water during or as a result of a storm event. The limits of the floodplain are defined by the high-water mark of a 100-year storm event, as shown on the most recent FEMA Flood Hazard and Flood Insurance Rate Maps.

**Floodproofing.** Measures designed to prevent and reduce flood damage to uses or structures located in the floodplain. They include: measures to prevent floodwaters from entering the structures; reinforced walls without openings less than two (2) feet above the maximum flood elevation; installation of doors or windows sealed to prevent the entry of water in structures designed to withstand the water velocities at that point.

**Flood Protection Elevation.** A point two (2) feet above the water surface elevation of the 100-year flood.

**Floodway.** A designated portion of the 100-year flood area in which waters are rapidly moving. It includes the stream channel and other areas designated on the most recent FEMA Flood Hazard and Flood Insurance Rate Maps.

**Floor Area, Gross.** The sum of the gross horizontal area of all floors of a building including basement areas, as measured from the interior perimeter of exterior walls. Such area shall not include interior loading and parking areas, atriums except the first floor area, rooftop mechanical equipment enclosures, and the enclosed mall areas of shopping centers.

**Floor Area Ratio (FAR).** A measure of the allowed size of floor area on a lot compared to the size of the lot. FAR gives developers flexibility in deciding whether to construct a low building covering most of the lot or a tall building covering only a small part of the lot, as long as the total allowable floor area coverage is not exceeded. See Figure 23.309.

**Floor Area Ratio, Gross (GFAR).** The total floor area of a building or structure divided by the base site area.

**Floor Area Ratio, Net (NFAR).** The total floor area (FA) of a building or structure divided by the net buildable site area (BSA). See Figure 23.310.

**Footcandle.** A unit measuring the amount of illumination produced on a surface. One (1) footcandle is the amount of illumination falling on all points which are one (1) foot from a uniform point source of one (1) candle.

**Forest.** An area covered by a canopy of woody plants (trees) that qualifies as mature or young. It may also be a woodland, woodlot, grove, or stand of trees having meeting the specifications of the forest type.

**Forester.** A person trained in forestry, botany, biology, or ecology knowledgeable in the area of Mid-western forests.

**Forest, Mature.** An area of forest covering a minimum of one (1) acre, with a canopy composed of trees having a DBH of sixteen (16) inches or greater covering seventy-five (75) percent of that area. Also, any stand or grove of eight (8) or more trees having a DBH of twenty (20) inches or more whose canopy covers fifty (50) percent or more of the area.

**Forest, Young.** An area of forest covering a minimum of one (1) acre, with a canopy composed of trees having a DBH of six (6) inches or greater covering sixty (60) percent of that area.

**Front Lot Line.** See *Lot Line*.

**Frontage.** For signs only, the length of a street lot line. See *Lot Width* for meaning as it applies to lot dimensions or access.

**Garage or Carport.** An accessory building used primarily for parking or storing a motor vehicle on residential lots. See also *Parking Garage*.

**Gas Service Station.** An establishment providing sales of vehicle fuel and services such as lubrication, oil and tire changes, and minor engine repairs. This use does not include paint spraying or vehicle body repair. See *Filling Station* and Section 23.240.

**Grade.** The natural level of the ground adjoining the object whose height is to be measured. Where grade refers to a street or road, it is the existing grade at that point.

**Grade Separated.** An intersection or pedestrian precinct where the road or walkway is separated by one level so no at-grade cross traffic or movement is present. One element goes over the other.

**Guest House.** A small detached accessory dwelling unit located on the same lot as a primary single-family detached dwelling unit that is intended to provide living quarters for nonpaying personal guests of the owner(s) of the principal residence. Such quarters shall be a single unit and shall not have separate utility meters. (Ordinance 2789, 11/27/01)

**Height, Building.** The maximum height of a building permitted on a lot. Building height is determined from the vertical distance as measured from the lowest ground elevation on the building to the highest point on the building. See Figure 23.311 and Section 04.110.

**Height, Sign.** The vertical distance measured from the highest of the adjacent sidewalk grade, adjacent street grade, or upper surface of the street curb to the highest point of the sign. Elevated roadways shall not be used to measure sign height.

**Highway.** A general term denoting a public or private way which affords the principal means of vehicular access of abutting property. The term includes all facilities which normally occur within the right-of-way; it shall also include such other designations as highway, thoroughfare, parkway, throughway, road, pike, avenue, boulevard, lane, place, court, but shall not include an alley or a pedestrian-way.

**Home Occupation.** See Section 23.260.

**Hotel.** See Section 23.240.

**Impoundment/Auto Storage.** This includes any land or structure related to a heavy auto repair or towing service that has regular outdoor storage/impoundment of two or more inoperative vehicles. Vehicles shall not be stored for more than twelve months. (Ordinance 2783, 08/28/01)

**Intensity.** The degree to which land is allowed to be used for development. See *Density* and *Floor Area Ratio*.

**Interlocal Agreement.** The agreement signed by the City of Paola and Miami County, dated February 6, 1996, which gives Paola zoning and subdivision powers within the City=s Community Growth Area.

**Land.** Areas above the ordinary high-water mark.

**Land Development.** The division or development of a nonresidential lot or tract for the purpose of creating additional lots, a building with more than one (1) use or tenant, the dedication of a street, alley, pedestrian precinct, or the linking of circulation to adjoining property.

**Land Development, Major.** See *Major Land Development*.

**Land Development, Minor.** See *Minor Land Development*.

**Land, Improved.** Vacant land which has been provided with power, water, sewage, streets and sidewalks, other infrastructure.

**Landfill.** A disposal site employing an engineering method of disposing solid wastes in a manner that minimizes environmental hazards by spreading, compacting to the smallest volume, and applying cover material over all exposed waste at the end of each operating day. Landfills shall specifically be designed subject to a permit by the State of Kansas or City and should not be confused with a dump. See Section 23.270.

**Landscape Surface Area.** Surface area of land not covered by any buildings, storage areas, or impervious surface. These areas shall be maintained as lawn or a natural area and may be left undisturbed. See Figure 23.312.

**Landscape Surface Ratio (LSR).** The area of landscaped surface divided by the base site area.

**Landscape Volume Ratio (LSR).** The landscape volume is calculated as follows:

$$\text{Landscape Volume Ratio} = \frac{Fv + Lv + Bv + Cv}{(\text{lot area}/10)}$$

Where: Fv = Average height of forest canopy multiplied by the forest area to be preserved after development.

Lv = The total number of plant units planted multiplied by 10,000.

Bv = The average height of the berm divided by 2, the result of which is multiplied by the average width and then the length of the berm.

Gv = The height of the groundcover in feet multiplied by the area not in forest.

**Landscaping.** The design and installation of plant material such as lawns, groundcover, trees, bushes, etc., in formal, informal, or natural arrangements.

**Lessee.** Any person who leases all or a portion of a premises on a day-to-day, week-to-week, or month-to-month basis.

**Loading Space.** A durably paved, properly designed for drainage, off-street space used for the loading and unloading of vehicles, except passenger vehicles in connection with the use of the property on which such space is located.

**Local Street.** A street that provides access to individual land uses.

**Local Residential Access Street.** A street that provides access to individual residential lots.

**Local Nonresidential Access Street.** A street that provides access to individual nonresidential lots.

**Lot.** An area of land which is part of a subdivision, the plat of which has been legally approved and recorded in the Office of the Register of Deeds of Miami County and is intended to be separately owned, developed, or otherwise used as a unit or an area of land which was legally approved and the deed recorded in the Office of the Register of Deeds. See Figure 23.313.

**Lot Area.** The area covered by a lot, not including any public or private street right-of-way, or any conservation or open space easement.

**Lot, Corner.** A lot abutting two (2) or more streets at their intersection.

**Lot, Double Frontage.** A lot having frontage on two (2) nonintersecting streets, as distinguished from a corner lot.

**Lot, Flag.** See *Flag Lot*.

**Lot Line.** A line or boundary that surrounds a lot. There are basically four types of lot lines--front, rear, side, and street. See Figure 23.313.

1. Front lot line. The street lot line from which the unit takes access; or where more than one (1) street yard could safely provide this access, the street serving the smallest traffic volume.
2. Rear lot line. The lot line opposite the front lot line.
3. Side lot line. The lot line that runs generally perpendicular or at angles to the street.
4. Street lot line. Any lot line that is also a street right-of-way line.

**Lot-Line House.** A dwelling type consisting of a single-family, fully detached residence located on an individual lot with only one (1) side yard. No windows are permitted on the zero lot line wall of the house. The zero lot line may be achieved by:

1. Placing the house on a side lot line and providing a maintenance easement six (6) feet wide on the adjoining lot; or,
2. Locating the house so as to provides two (2) side yards, one (1) of which shall be a six (6) foot side yard with a use easement for the neighboring property.

**Lot of Record.** Any validly recorded lot or parcel of land which at the time of its recording with the Office of the Register of Deeds of Miami County complied with all applicable laws and regulations then in effect.

**Lot Width.** The distance across the lot (side lot line to side lot line) at the minimum front setback line or at the midpoint of the buildable area, whichever is less. Lot width is also the measure of frontage for lots (For signs, see *Frontage*). See Figure 23.314.

**Luminaire.** A complete lighting unit consisting of a light source and all necessary mechanical, electrical, and decorative parts ready to be mounted on pole or other location.

**Luminaire, Cut-off-type.** See *Cut-off-type Luminaire*.

**Maintenance Guarantee.** A guarantee of facilities or work to ensure the correction of any failures of any improvements required pursuant to this Ordinance, or to maintain same.

**Major Change.** A change to the plan that increases density or floor area, decreases open space, bufferyards, or parking, or which alters the alignment or layout of streets by more than five (5) feet. For conditional approvals granted prior to the adoption of this Ordinance, any use proposed not contained in the original advertisement shall be considered a major change.

**Major Collector Street.** A street intended to gather traffic from local nonresidential access streets and convey it to higher level streets. Note this street does not serve individual nonresidential lots. Located in nonresidential areas or developments, this street type collects and moves a high volume of traffic from local nonresidential access streets. See Figure 11.120 for streets designated as major collector streets.

**Major Land Development.** A land development consisting of one (1) or more principle uses whose combined gross floor area is twenty thousand (20,000) square feet or more.

**Major Subdivision.** A subdivision consisting of more than five (5) lots.

**Manufactured Home.** This is a structure that is transportable in one or more sections, built on a permanent chassis, that is designed to be towed to the site on removable wheels. It shall be mounted on a permanent foundation. The term includes, but is not limited to, the definition of "mobile home" as set forth in regulations governing the Mobile Home Safety and Construction Standards Program (24 C.F.R. 3282.7 (a)). Double wide factory built homes meeting the building code and manufactured homes mounted on permanent foundations shall be considered single-family homes.

**Marina.** A facility for storing, servicing, fueling, berthing and securing, and launching private boats. It may have facilities for the sale of fuel and incidental supplies for boating activities.

**Maximum Permitted Illumination.** The most illumination, measured in footcandles, that is allowed at the interior lot line or bufferyard line, if a bufferyard is required, at ground level.

**Minor Change.** A change to the plan that does not increase density or floor area, does not decrease open space, bufferyards, or parking, or which alters the alignment or layout of streets by less than five (5) feet.

**Minor Collector Street.** A street intended to gather traffic from local nonresidential access streets and convey it to higher level streets. Note this street does not serve individual nonresidential lots. Located in nonresidential areas or developments, this street type collects and moves a low volume of traffic from local nonresidential access streets.

**Minor Deviations.** Such deviations shall not include increasing the use's intensity, introducing uses not previously approved, or decreasing the amount of open space or resource protection.

**Minor Land Development.** A land development consisting of no more than one (1) principle use whose gross floor area is less than twenty thousand (20,000) square feet.

**Minor Subdivision.** A subdivision consisting of no more than five (5) lots.

**Mixed Use.** See Section 23.240.

**Monument.** A marker to be made of materials and placed by a land surveyor at locations specified in Section 10.134.

**Monument Sign.** See Ground Sign.

**Motel.** See Section 23.240.

**Multiplex.** A multiple-family building type. Units may have either private or shared access. The units may be arranged in a variety of configurations, including back-to-back, side-to-side, or vertical. However, no fewer than two (2) and no more than eight (8) units shall be attached in any single building. A multiplex is permitted only in planned developments as provided in Articles 03 and 04. See Figure 04.110.

**National Geodetic Vertical Datum (NGVD).** Elevations referenced to mean sea level datum of the 1929 U.S. Geological Survey.

**Net Buildable Site Area.** A calculated value, determined by the calculations specified in Division 05.100.

**Nonconforming Building.** Any building or structure, other than a sign, legally established prior to the adoption of this Ordinance, which does not fully comply with this Ordinance. This would involve the placement of the building or other uses of the property on the lot, the intensity of use, or other requirements of this Ordinance.

**Nonconforming Lot.** A lot, legally established prior to the adoption of this Ordinance, which does not meet the standards of the district in which it is located. This can involve minimum area, buildable area, or dimensional requirements of the lot.

**Nonconforming Sign.** Any sign, legally established prior to the adoption of this Ordinance, which does not fully comply with the standards of this Ordinance.

**Nonconforming Structure.** See *Nonconforming Building*.

**Nonconforming Use.** Any use, legally established prior to the adoption of this Ordinance, which is not permitted in the district in which is located. This would also include uses that are permitted after further review or as conditional uses that have not met those standards of review.

**Nonconformities.** Lots, signs, structures, buildings, or uses of land, which are prohibited by this Ordinance, or otherwise fail to meet the standards of this Ordinance but were lawful prior to the enactment of this Ordinance. May also be referred to as a legal nonconformity.

**Notice of Disturbance.** This shall indicate that the Zoning Officer (limited uses) or City Council (conditional uses) has approved a disturbance of a certain acreage of natural resources. Each shall be listed along with the acres involved. The notice shall contain an indication of resources that may be further disturbed or any areas where resources will have to be restored if the site is developed.

**Obstruction.** Any structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth in Division 04.100 of this Ordinance.

**On-Site.** Located on the lot in question. However, when referring to on-site detention, it means within the boundaries of the development site as a whole.

**Opacity.** The measurement of the screening effectiveness of a bufferyard or fence expressed as the percent of vision that the screen blocked. The impact of visual perspective is also taken account.

**Open Space.** Land required to be left undeveloped as part of a natural resource preservation or open space provision of this Ordinance. Such required open space excludes areas in lots, street rights-of-way, or parking. An exception shall be made for lots whose areas are in excess of the minimum open space required and are protected under a conservation easement. See Figure 23.315.

**Open Space, Common.** Open space within a development, or outlots designated for open space, which are designed and intended for common use or the enjoyment of the residents of the development.

**Open Space Ratio (OSR).** The portion of a development required to be left in open space. It is determined by dividing the area in open space by the base site area. When applied to resource protection, the open space ratio shall mean that percentage of the resource feature to be protected and/or preserved in the total land area in that resource.

**Outparcel.** A lot used for drainage, detention, agriculture, or open space, with distinct boundaries, which shall not be used for residential or nonresidential uses, that is created in the process of subdivision.

**Overlay District.** A district that is applied over other zoning districts, and which may modify the permitted uses or intensity of use.

**Owner.** The person, persons, or corporate entity having the legal title to, beneficial interest in, or a contractual right to use or purchase a lot or parcel of land, whether or not such lot or parcel of land is held in common by joint owners.

**Parcel.** A separately designated area of land delineated by identifiable legally recorded boundary lines.

**Park.** An area open to the general public and reserved for recreational, educational, or scenic purposes.

**Parking Bay.** A paved vehicle storage area directly adjacent to the access street or privately controlled pavement.

**Parking Garage.** A building that provides parking for a number of vehicles laid out as a parking lot on one (1) or more levels with at least one (1) level being under roof.

**Parking Lot.** An area within a lot, and outside of the public right-of-way, where motor vehicles may be parked. This use may or may not be the sole use of the lot.

**Parking Space/Stall.** A durably dustproofed, properly graded for drainage, usable space enclosed in a main building or in an accessory building, or unenclosed, reserved for the temporary storage of one (1) vehicle, and connected to a street, alley, or other designated roadway by a surfaced aisle or driveway. Each such designated space shall comply with the dimensional requirements set forth in Section 12.410.

**Passive Recreation.** Recreational uses, areas, or activities oriented to noncompetitive activities which either require no special equipment or are natural areas. Bicycle riding, hiking, and bird watching are examples of passive recreation activities.

**Patio House.** A dwelling type that is a detached or semi-detached unit (i.e. attached by a common wall to another dwelling unit) for a single family, with one (1) dwelling unit from ground to roof. Each dwelling unit's lot shall be fully enclosed by a wall located at the lot line, thus creating a private yard, referred to as a patio, between the house and the wall. A "minimum patio area" rather than setbacks is used to determine minimum yard area. All living spaces, such as living rooms, dens, and bedrooms, shall face into the yard or patio. A patio house is permitted only in planned developments as provided in Articles 03 and 04. See Figure 04.110.

**Pavement.** The act or result of applying a hard, water-tight material to any ground surface in such a manner as to present a uniform surface over large areas.

**Pedestrian Ways.** Paths, sidewalks, plazas, courts, squares, typically used for walking.

**Pennants.** See *Flags* and *Banners*.

**Performance Guarantee.** See *Surety*.

**Performance Standards.** The portions of this Ordinance that state the requirements that must be met by a development in order for it to receive development approval.

**Permit.** An official document or certificate issued by the authority having jurisdiction which authorizes performance of a specific level of activity.

**Permitted Use.** A use which is authorized by right in a given zoning district.

**Person.** Individuals, partnerships, firms, corporations, associations, trusts, and any other similar entities or combination of individuals.

**Person, Having Control.** Any occupant, agent, servant, representative of employee of any owner, lessee, or renter of any property who exercises any control on behalf of the owner, lessee, or renter.

**Plan, Site.** A drawing showing plan and section views of the existing conditions and proposed improvements.

**Plans, Construction.** The engineering drawings showing the construction details and the types of material for the physical structures and facilities, excluding dwelling units, to be installed in conjunction with the development of the project.

**Planned Development.** A form of cluster development, and residential use type. See Section 23.220.

**Plat.** A drawing showing the location, boundaries, and ownership of individual properties. The drawing depicting the subdivision of land into lots and the location of streets and other elements as required by Section 21.620.

**Plot.** See *Parcel*.

**Preapplication Conference.** Discussions held between property owners or developers and the Zoning Officer before a formal submission of a development project. See Section 21.110.

**Property Line.** The legally recorded boundary of a lot, tract, or other parcel of land.

**Principal Building or Use.** The main use on a piece of property in terms of size, area, and function. See *Accessory Building or Use*.

**Public Improvement.** Any improvement, facility, or service, together with customary improvements and appurtenances thereto, necessary to provide for public needs such as: streets, alleys, pedestrian walks or paths; storm sewers, flood control improvements, water supply and distribution facilities, sanitary sewage disposal and treatment; public utility and energy services.

**Public Utilities.** Publicly owned or regulated utilities including water, sewer, telephone, gas, and electric. See Division 23.230.

**Recreation.** See *Active Recreation* and *Passive Recreation*.

**Recreational Vehicle.** A vehicle designed or used as living quarters for recreational, camping, vacation, or travel use, such as house trailers, trucks, trailers, pickup trucks, and vans.

**Renter.** Any person who rents all or a part of the premises on a day-to-day, week-to-week, or month-to-month basis. For purposes of this Ordinance, a person over the age of eighteen (18) years who is living in a household with a parent but who is neither the owner, the lessee, the head of the household, or the person having control, shall be considered to be a "renter," regardless of whether they pay rent for such occupancy in money.

**Residential Collector Street.** A new street intended to gather traffic from local residential access streets and convey it to higher level streets. Note this street does not serve individual residential lots. Located in residential areas or developments, this street type collects and moves the traffic from local residential access streets whose total dwelling unit count exceeds 240. See Figure 11.120 for streets designated as residential collector streets.

**Retaining Wall.** A wall or similar structural device used at a grade change to hold the soil on the up-hill side from slumping, sliding, or falling.

**Rezoning.** An amendment to this Ordinance or a change to the Zoning Map. Such action can only be performed as set forth in the procedures in Division 21.200.

**Riding Stable.** A building and designated site intended or used as a shelter for horses or ponies, which provides for commercial boarding, hire, sale, or training of such animals. See Section 23.210.

**Right-of-Way.** A strip of land occupied or intended to be occupied by a public or private street on which a right-of-passage has been recorded or is required to be recorded for the use of vehicles, pedestrians, and

necessary public utility infrastructure (including, but not limited to, water lines, sewer lines, power lines, gas lines).

**Road, Arterial.** See *Arterial Street*.

**Road, Collector.** See *Collector Street*.

**Road, Local.** See *Local Residential Access Street* or *Local Nonresidential Access Street*.

**Road, Major Collector.** See *Major Collector Street*.

**Road, Minor Collector.** See *Minor Collector Street*.

**Roadway.** See *Right-of Way*.

**Roadway Right-of-Way Line.** The boundary dividing a lot from a public or private roadway.

**Roofline.** The top of a roof or building parapet, excluding any cupolas, pylons, chimneys, or other minor projections.

**Runoff.** The rainfall, snowmelt, or irrigation water flowing over the ground surface.

**Screen, Visual.** A physical device and/or landscaping, such as berms, walls, or hedges, used to hide or conceal a use or structure from sight.

**Service Station.** See *Gas Service Station* and Section 23.240.

**Setback.** The required distance between every structure and the lot lines of the lot on which it is located. Setbacks are illustrated by a line parallel to and at the specified minimum distance from the rear, side, or street lot line (see Figure 23.316). Rear, side, and street setbacks are specified in Article 04. This may also be referred to as a yard requirement.

**Sheltered Care.** Group care homes and group homes where the residents and any staff, up to a maximum of eight (8) people, live together in a family-type environment. The residents shall participate and live as a family unit. Such units shall be treated as single-family units. Each unit shall be either an existing single-family unit or a new unit constructed to resemble a single-family unit in internal layout, architecture, scale, and character specified in Article 04 rather than as an institutional facility.

**Shopping Center.** A group of commercial establishments planned, developed, and managed as a unit with off-street parking provided on the property.

**Sight Distance Triangle.** A specified amount of clear visibility provided at the intersection of two or more roads or access points to ensure drivers entering traffic have unencumbered views of such traffic. See Section 11.260.

**Sign.** Any object, device, display, structure, or part thereof, situated outdoors or viewed from outdoors, which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, religious group, product, service, event, or location by any means, including words, letters, figures, designs, symbols, fixtures, colors, illumination, or projected images. See Article 07.

**Sign, Awning/Canopy.** A sign that is mounted on, painted on, or attached to, an awning, canopy or marquee. No such signs shall project above, below or beyond the awning or canopy.

**Sign, Bulletin Board/Marquee.** A sign that indicates the name of an institution or organization on whose premises it is located and which contains the name of the institution or organization, the name or names of persons connected with it, and announcement of persons, events or activities occurring at the institution. Such sign may also present a greeting or similar message.

**Sign, Business.** A sign which directs attention to a business or profession conducted, or to products, services or entertainment sold or offered upon the premises where such sign is located, or to which it is affixed.

**Sign, Canopy or Awning.** A sign that is located or printed on a canopy or awning.

**Sign, Construction.** A temporary sign indicating the names of the architects, engineers, landscape architects, contractors and similar artisans involved in the design and construction of a structure, complex or project. This sign is permitted only during the construction period and only on the premises on which the construction is taking place.

**Sign, Gross Area.** Gross area shall include the entire area within a single continuous perimeter enclosing the extreme limits of the sign, exclusive of the base on which it is mounted or from which it is suspended. If more than one side of a sign is utilized as a sign, then only the largest side shall be computed and shall be counted as a portion of the gross area. On lots where more than one sign is located, the total gross area of all the signs shall not exceed the maximum gross area permitted by this Article. For computing the gross area of any wall sign which consists of letters mounted or painted on a wall, the area shall be deemed to be the area of the smallest rectangular figure which can encompass all of the letters.

**Sign, Ground.** A permanent detached sign made of masonry, wood, stone, concrete, or exterior insulated finish system. The ground sign copy area must be attached in a continuous fashion to a proportionate base. The proportionate base must be continuous and the width of the base must be at least one-half the width of the widest part of the sign or the base may consist of two or more supports where the sign face is not more than two feet above the average grade of the ground. See Figure 23.317. (Ordinance #2772, 03/13/01)

**Sign, Height.** The distance measured from the ground elevation at the base of the sign to the highest element of the sign.

**Sign, Identification.** A sign giving the name and address of a building, business, development or establishment. Such signs may be wholly or partly devoted to a readily recognized symbol.

**Sign, Illuminated.** A sign designed to give forth artificial light or designed to reflect light derived from any source.

**Sign, Metal.** Signs constructed of metal and illuminated by any means requiring internal wiring, including electrically wired accessory fixtures attached to a metal sign.

**Sign, Name Plate.** 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 status.

**Sign, Nonconforming.** See *Nonconforming Sign*

**Sign, Off-premise/Advertising.** A sign which directs the attention of the public to any goods, merchandise, property, business, service, entertainment or amusement conducted or produced which is bought or sold, furnished, offered or dealt in elsewhere than on the premises where such sign is located or to which it is affixed.

**Sign, Pole.** A detached sign where the width of the base of the sign is less than one half the width of the widest part of the sign face. See Figure 23.317.

**Sign, Portable.** Any sign that is not permanently affixed to a building, structure, or the ground.

**Sign, Projecting.** A sign that is wholly or partly dependent upon a building for support and which projects more than 12 inches from such building. Projecting signs shall not extend above the parapet or eave line of the building and the furthest extension of the sign shall not project more than 4 feet from the structure. The sides of a projecting sign shall be parallel back to back and shall not exceed 12 inches in thickness.

**Sign, Real Estate.** A sign pertaining to the sale or lease of a lot or tract of land on which the sign is located, or to the sale or lease of one or more structures, or a portion thereof on which the sign is located.

**Sign, Roof.** A sign totally supported on the roof of a structure. Roof signs shall not project more than 12 inches beyond the face of the building.

**Sign, Structure.** Any device or material which supports, has supported, or is capable of supporting a sign in a stationary position, including decorative covers or sign roofs.

**Sign, Temporary.** A sign or advertising display constructed of cloth, canvas, fabric, paper, plywood, or other light material. It shall be displayed for only a short period of time.

**Sign, Travelers Convenience.** A sign giving the distance and direction to customary travelers service such as gasoline, lodging, and food.

**Sign, Wall.** A sign fastened to or painted on a wall of a building or structure in such a manner that the wall becomes merely the supporting structure or forms the background surface, and which does not project more than 12 inches from such building.

**Siltation Control.** The installation of such devices as sediment ponds, bales of straw, fencing, siltation webbing, sodding, seeding and mulching, or other devices to prevent silting of abutting properties and roadways during the period of construction and up to and including such times as permanent ground cover is attained.

**Single Lot Development.** A development consisting of one (1) or more buildings to be erected on a platted parcel of land or a single lot which is part of a subdivision, intended to be separately owned, developed, and otherwise used as a unit.

**Site.** A plot of land that can be used for a development.

**Site Plan.** A plan of the area to be developed, drawn to scale. The plan shows uses and structures proposed for a parcel of land as required by Division 21.600 and City check lists.

**Site Plan Review.** The review of a land development's site plan for compliance with this Ordinance.

**Site Volume Ratio (SVR).** A calculated value resulting from subtracting the building volume ratio from the landscape volume ratio.

**Slope.** The change in the vertical measurement divided by the change in the horizontal measurement. The figure is written as a ratio or a percentage. See Figure 23.318.

**Slope, Steep.** Two (2) categories of steep slopes are use in this Ordinance based upon the relative degree of the steepness of the slope (see Table 05.210). No land area shall be considered a steep slope unless it has at least a fifteen (15) foot vertical drop and has a minimum area of 10,000 square feet. If two (2) slope categories have the area and drop combined across their total area, they shall be considered a slope of the lesser class. See Figure 23.317.

**Specimen Tree.** Any tree eight (8) inches DBH or greater and being in good health.

**Stable, Private.** A detached building accessory to a residential use for the keeping of horses owned by the occupants of the premises and which shall not be used for any commercial purpose including the boarding, hire, sale, or training of horses.

**Steep Grade.** Roadway grades in excess of eight (8) percent.

**Stormwater Management.** The management of drainage to ensure that water moves in a manner that protects people and property from damage or flooding. It includes man-made and natural channels, drainage structures, storage areas, sedimentation control, and erosion control.

**Storage.** See *Exterior Storage*.

**Story.** That portion of a building, other than a basement or attic, included between the surface of any floor and the surface of the floor or roof above.

**Street.** A public or private road designed for use and travel by motor vehicles.

**Street, Access.** See *Access*.

**Street, Alley.** See *Alley*.

**Street, Arterial.** See *Arterial Street*.

**Street, Collector.** See *Collector Street*.

**Street, Cul-de-Sac.** See *Cul-de-Sac*.

**Street, Frontage or Service.** A minor street generally parallel to and adjacent to arterial streets and highways, which provides access to abutting properties and protection from through traffic.

**Street, Local.** See *Local Residential Access Street* and *Local Nonresidential Access Street*.

**Street, Loop.** A short, independent street which usually terminates along the same collector street of its origin.

**Street, Major Collector.** See *Major Collector Street*.

**Street, Minor Collector.** See *Minor Collector Street*.

**Street, Private.** A private way which affords the principle means of vehicular access to abutting property.

**Street, Public.** A street maintained by the City of Paola Department of Public Works, Miami County Department of Public Works, or the State of Kansas Department of Transportation.

**Street, Residential Collector.** See *Residential Collector Street*.

**Streetscape.** A nonresidential design form in which individual building are set parallel to the street and built at the setback line.

**Structure.** Anything constructed or erected in a fixed location for occupancy or use or any such object with a height greater than three (3) feet or having a volume greater than fifty (50) cubic feet.

**Structural Alteration.** Any change in the supporting members of a building, such as the bearing walls, beams, columns, or girders. See *Addition and Conversion, Building or Use*.

**Structure, Permanent.** A structure placed on or in the ground, or attached to another structure in a fixed position, and intended to remain in place for more than one (1) month.

**Structure, Temporary.** A structure that is designed to be repeatedly erected or inflated, tents and inflatable structures, or buildings that are picked up and moved, which shall remain on site for no more than one (1) month.

**Subdivision.** Any subdivision or redivision of a plat, tract, parcel, or lot of land into two (2) or more parts by means of mapping, platting by either metes and bounds or subdivision, conveyance, change, or rearrangement of boundaries. All subdivisions are also developments.

**Subdivision, Major.** See *Major Subdivision*.

**Subdivision, Minor.** See *Minor Subdivision*.

**Subdivision, Nonresidential.** See *Land Development*.

**Superblock.** An area bounded by arterial or collector streets, or cut off by a body of water.

**Surety.** A form of financial guarantee that required improvements will be made by providing the City with the resources to install the improvements should the developer fail to do so. These include, bonds, cash, letters of credit, or other financial instruments approved by the City Attorney.

**Swale.** A linear depression in the land's surface in which sheet runoff would collect and form a temporary watercourse. See Figure 23.319.

**Townhouse.** A single-family attached unit, with a single unit going from ground to roof, and with individual outside access. Rows of attached townhouses shall average no more than ten (10) dwelling units. A townhouse is permitted only in attached single-family or planned developments as provided in Articles 03 and 04. See Figure 04.110.

**Townhouse, Weak-Link.** An attached dwelling unit, a single unit from ground to roof, with individual outside access housing a single family. Each unit shall have both a one (1) and two (2) story section. A group of attached, weak-link townhouses shall average no more than eight (8) dwelling units per group. A weak-link townhouse is permitted only in attached single-family or planned developments as provided in Articles 03 and 04. See Figure 04.110.

**Tract.** See *Parcel*.

**Tree, Canopy.** A tree whose leaves would occupy the upper level of a forest in a natural ecological situation. These trees are also called shade trees, and typically reach heights of fifty (50) to one hundred (100) feet at maturity. See tree lists available from Staff.

**Tree, Understory.** A tree whose leaves would occupy the intermediate level of a forest in a natural ecological situation. They are also found as dominant species in old field succession. These trees are also called ornamental trees. See tree lists available from Staff.

**Twin House.** A dwelling that is attached by a common wall to one (1) other dwelling unit. It has only one (1) dwelling unit from ground to roof and only one (1) wall in common with another dwelling unit. One family lives in it. A twin house is permitted only in planned developments as provided in Articles 04 and 05. See Figure 04.110.

**Understory Tree.** See *Tree, Understory*.

**Use.** The purpose or activity conducted in a building or structure or on a piece of land. Some examples of land uses are: residential, retail, hotel, industrial.

**Use, Permitted.** Uses permitted by this Ordinance.

**Use, Principal.** The specific primary purpose for which land is used. It shall be dominant in size, area, and use.

**Variance.** The process by which a property owner is granted relief from certain provisions of this Ordinance. See Section 21.250.

**Vehicle Repair Facility.** Section 23.240.

**Village House.** A single-family residence which is fully detached from neighboring structures. A village house has very small front yards with special landscape requirements. Homes shall be built to the build-to line. A village house is permitted only in planned developments as provided in Articles 03 and 04. See Figure 04.110.

**Volume.** The smallest prism or parallelepiped that may be drawn around a sculpture. See *Building Volume Ratio*, *Landscape Volume Ratio*, and *Site Volume Ratio*.

**Wall, Retaining.** See *Retaining Wall*.

**Waterbody Buffer.** An area of land one hundred (100) feet in width surrounding lakes, ponds, and lagoons over ten thousand (10,000) square feet in area, and streams and rivers with channels greater than twenty (20) feet in width. The area shall be measured at the normal high-water mark of lakes or ponds or the top of the stream bank.

**Waterbody Buffer, Lake Miola.** An area of land three hundred (300) feet in width surrounding lakes, ponds, and lagoons over ten thousand (10,000) square feet in area, and perennial and ephemeral streams that have established channels (natural or manmade) within the Lake Miola watershed as shown on the Zoning Map. The area shall be measured at the normal high-water mark of lakes or ponds or the top of the stream bank.

**Watershed.** The area contributing to runoff water to a channel, drainage system or detention basin. Also commonly referred to as a drainage area.

**Wetland.** An area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and under normal conditions does support, a prevalence of vegetation types typically adapted for life in saturated soil conditions. Wetlands include bogs (peat dependent), marshes (herbaceous plants), swamps (woody plants), and portions of floodplains. Preliminary definition may be from the most recent official Wetland Inventory Maps. However, wetlands must be field delineated and approved in accordance with this definition or that of the U.S. Army Corps of Engineers, whichever is more stringent.

**Yard.** Those portions of a lot outside the buildable area which are for the use of the occupants. Such areas are unobstructed from the ground up, except for permitted accessory buildings or architectural features. Such areas are required regardless of ownership type. The types of yards are front, rear, side, and street. See Figure 23.320.

**Zero Lot Line.** This is where a lot line is co-terminus with the residential building line, or where a lot contains an easement of access to the adjoining property that runs up to the building line. See *Lot Line House*.

**Zoning District.** A designation shown on the Zoning Map as being in a district enumerated in Article 02 in which a specific set of zoning standards apply. It may refer to the standards or an area so mapped.

**Zoning Map.** The map and/or detailed maps showing the location and boundaries of the zoning districts established by this Ordinance. These maps are entitled, "Official Zoning Map of the City of Paola.≡

**Zoning Permit.** A written permit issued by the Zoning Officer that certifies that the proposed use of the land will be in compliance with this Ordinance.

**Zoo.** A permanent cultural institution accredited by the American Zoo and Aquarium Association, which owns and maintains wildlife that represent more than a token collection and, under the direction of professional staff, provides its collection with appropriate care and exhibits them in an aesthetic manner to the public on a regularly scheduled basis, more than 1,000 hours a year. (Ordinance 2799, 06/11/02)

#### **DIVISION 23.400. FLOODPLAIN DEFINITIONS**

This Division contains the definition of words used in this Ordinance pertaining to floodplains.

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

**"100-year Flood"** *see "base flood."*

**"Accessory Structure"** means the same as *"appurtenant structure."*

**"Actuarial Rates"** *see "risk premium rates."*

**"Administrator"** means the Federal Insurance Administrator.

**"Agency"** means the Federal Emergency Management Agency (FEMA).

**"Appeal"** means a request for review of the Floodplain Administrator's interpretation of any provision of this ordinance or a request for a variance.

**"Appurtenant Structure"** means 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.

**"Area of Shallow Flooding"** means a designated AO or AH zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one (1) to three (3) feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

**"Area of Special Flood Hazard"** is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year.

**"Base Flood"** means the flood having a one percent chance of being equaled or exceeded in any given year.

**"Basement"** means any area of the structure having its floor subgrade (below ground level) on all sides.

**"Building"** *see "structure."*

**"Chief Engineer"** means the chief engineer of the division of water resources, Kansas Department Of Agriculture.

**"Chief Executive Officer" or "Chief Elected Official"** means the official of the community who is charged with the authority to implement and administer laws, ordinances, and regulations for that community.

**"Community"** means any State or area or political subdivision thereof, which has authority to adopt and enforce floodplain management regulations for the areas within its jurisdiction.

**"Development"** means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, levees, levee systems, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

**"Elevated Building"** means 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.

**"Eligible Community" or "Participating Community"** means a community for which the Administrator has authorized the sale of flood insurance under the National Flood Insurance Program (NFIP).

**"Existing Construction"** means for the purposes of determining rates, structures for which the *"start of construction"* commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. *"existing construction"* may also be referred to as *"existing structures."*

**"Existing Manufactured Home Park or Subdivision"** means 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 final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

**"Expansion to an Existing Manufactured Home Park or Subdivision"** means 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).

**"Flood" or "Flooding"** means a general and temporary condition of partial or complete inundation of normally dry land areas from: (1) the overflow of inland waters; (2) the unusual and rapid accumulation or runoff of surface waters from any source; and (3) 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 (1).

**"Flood Boundary and Floodway Map (FBFM)"** means an official map of a community on which the Administrator has delineated both special flood hazard areas and the designated regulatory floodway.

**"Flood Elevation Determination"** means a determination by the Administrator of the water surface elevations of the base flood, that is, the flood level that has a one percent or greater chance of occurrence in any given year.

**"Flood Elevation Study"** means an examination, evaluation and determination of flood hazards.

**"Flood Fringe"** means the area outside the floodway encroachment lines, but still subject to inundation by the regulatory flood.

**"Flood Hazard Boundary Map (FHBM)"** means 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.

**"Flood Hazard Map"** means the document adopted by the governing body showing the limits of: (1) the floodplain; (2) the floodway; (3) streets; (4) stream channel; and (5) other geographic features.

**"Flood Insurance Rate Map (FIRM)"** means an official map of a community, on which the Administrator has delineated both the special flood hazard areas and the risk premium zones applicable to the community.

**"Flood Insurance Study (FIS)"** means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

**"Floodplain" or "Flood-prone Area"** means any land area susceptible to being inundated by water from any source (*see "flooding"*).

**"Floodplain Management"** means 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.

**"Floodplain Management Regulations"** means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as floodplain and grading ordinances) 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.

**"Floodproofing"** means any combination of structural and nonstructural additions, changes, or adjustments to structures that reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, or structures and their contents.

**"Floodway" or "Regulatory Floodway"** means 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.

**"Floodway Encroachment Lines"** means the lines marking the limits of floodways on Federal, State and local floodplain maps.

**"Freeboard"** means 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 bridge openings and the hydrological effect of urbanization of the watershed.

**"Functionally Dependent Use"** means 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.

**"Highest Adjacent Grade"** means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

**"Historic Structure"** means 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 certified either (1) by an approved state program as determined by the Secretary of the Interior or (2) directly by the Secretary of the Interior in states without approved programs.

**"Lowest Floor"** means the lowest floor of the lowest enclosed area, including basement. An unfinished or flood-resistant enclosure, usable solely 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 floodproofing design requirements of this ordinance.

**"Manufactured Home"** means 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."*

**"Manufactured Home Park or Subdivision"** means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**"Map"** means the Flood Hazard Boundary Map (FHBM), Flood Insurance Rate Map (FIRM), or the Flood Boundary and Floodway Map (FBFM) for a community issued by the Federal Emergency Management Agency (FEMA).

**"Market Value" or "Fair Market Value"** means an estimate of what is fair, economic, just and equitable value under normal local market conditions.

**"Mean Sea Level"** means, 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.

**"New Construction"** means, 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.

**"New Manufactured Home Park or Subdivision"** means a manufactured home park or subdivision for which the construction of facilities for servicing the lot on which the manufactured 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 on or after the effective date of floodplain management regulations adopted by the community.

**"(NFIP)"** means the National Flood Insurance Program (NFIP).

**"Participating Community"** also known as an *"eligible community,"* means a community in which the Administrator has authorized the sale of flood insurance.

**"Permit"** means a signed document from a designated community official authorizing development in a floodplain, including all necessary supporting documentation such as: (1) the site plan; (2) an elevation certificate; and (3) any other necessary or applicable approvals or authorizations from local, state or federal authorities.

**"Person"** includes any individual or group of individuals, corporation, partnership, association, or any other entity, including Federal, State, and local governments and agencies.

**"Principally Above Ground"** means that at least 51 percent of the actual cash value of the structure, less land value, is above ground.

**"Reasonably Safe From Flooding"** means base flood waters will not inundate the land or damage structures to be removed from the SFHA and that any subsurface waters related to the base flood will not damage existing or proposed buildings.

**"Recreational Vehicle"** means 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 able to

be towed 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.

**"Remedy A Violation"** means 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.

**"Risk Premium Rates"** means 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.

**"Special Flood Hazard Area"** *see "area of special flood hazard."*

**"Special Hazard Area"** means an area having special flood hazards and shown on an FHBM, FIRM or FBFM as zones (unnumbered or numbered) A, AO, AE, or AH.

**"Start of Construction"** includes substantial-improvements, and means 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 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 structures, 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.

**"State Coordinating Agency"** means 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 National Flood Insurance Program (NFIP) in that state.

**"Structure"** means, 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. *"Structure"* for insurance purposes, means 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.

**"Substantial-Damage"** means damage of any origin sustained by a structure whereby the cost of restoring the structure to pre-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

**"Substantial-Improvement"** means 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 *"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 (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications that have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or (2) any alteration of a *"historic structure,"* provided that the alteration will not preclude the structure's continued designation as a *"historic structure."*

**"Variance"** means 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.

**"Violation"** means 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 this ordinance is presumed to be in violation until such time as that documentation is provided.

**"Water Surface Elevation"** means 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.