

ORDINANCE NO. 26

AN ORDINANCE TO PROMOTE THE HEALTH, SAFETY, MORALS AND GENERAL WELFARE OF THE COMMUNITY OF THE TOWN OF PORTAGE DES SIOUX, MISSOURI, BY REGULATING AND RESTRICTING THE HEIGHT, NUMBER OF STORIES, AND SIZE OF THE BUILDINGS AND OTHER STRUCTURES, THE PERCENTAGE OF LOT THAT MAY BE OCCUPIED, THE SIZE OF THE YARDS, COURTS, AND OTHER OPEN SPACES, THE DENSITY OF POPULATION, AND THE LOCATION AND USE OF BUILDINGS, STRUCTURES, AND LAND FOR TRADE, INDUSTRY, RESIDENCE, OR OTHER PURPOSES.

WHEREAS, The Mayor and Council of the Town of Portage Des Sioux, acting as the City plan Commission, has caused a thorough study to be made of the recent growth and existing development within the Town; and

WHEREAS, The study shows that there is need for zoning regulations restricting the erection, construction, reconstruction, alteration, or use of the buildings, structures, land and the size of the lots within the corporate limits, of the town of Portage Des Sioux, and a public hearing was had on April 29, 1959 in relation thereto.

NOW, THEREFORE, Be it ordained by the Town of Portage Des Sioux, Missouri, as follows:

ARTICLE I

Definitions

For the purposes of this Ordinance, the following phrases, words, and their derivatives shall have the meaning given herein. The word "shall" is always mandatory and not merely directory.

1. "Dwelling" A building designed or used as the permanent living quarters for one or more families.
2. "Family": One or more persons occupying a premises and living as a single housekeeping unit as distinguished from a group occupying a boarding house, a lodging house, or hotel.
3. "Building": A structure having a roof supported by columns or walls.

4. "Structure": Anything constructed or erected, the use of which requires more or less permanent location on the ground or attached to something having a permanent location on the ground.
5. "Floor Area": For the purpose of determining the floor area of a building, the gross floor area shall be the sum of the gross horizontal areas of the several floors of the building, excluding areas used for accessory garage purposes and such basement and cellar areas as are devoted exclusively to uses accessory to the operation of the building. All horizontal dimensions shall be taken from the exterior faces of walls, including walls or other enclosures of enclosed porches.
6. "Non-Conforming Use" Is a building structure or use of land existing at the time of enactment of this Ordinance and which does not conform to the regulations of the district in which it is located.
7. "Set-Back": The minimum horizontal distance between the front line of a building, excluding steps and unenclosed porches and the line of the street abutting the front lot line.
8. "Trailer Homes": A vehicle without motive power designed to be drawn by a motor vehicle and to be used for human habitation or for carrying of persons.
9. "Yard Front": An open, unoccupied space extending across the full width of the lot between the front wall of the principal building and the front lot line.
10. "Junk": Any worn out, cast off, or discarded article or material which is ready for destruction or has been collected or stored for salvage or conversion to some use; and a junk yard is the use of more than 100 square feet of the area of any lot for the storage, keeping, or abandonment of junk.

11. "Basement": A story having more than one-half of its height below the average level of the adjoining ground, and constructed of concrete or masonry.

ARTICLE II  
Non-Conforming Uses

SECTION I

The lawful use of any building, structure, trailer, or land existing at the time of the enactment of this Ordinance may be continued, although such use does not conform with the provisions of this Ordinance, until abandoned or until the intent of the owner to discontinue the use is apparent.

SECTION II

Any non-conforming building or structure which has been or may be damaged by fire, flood, explosion, earthquake, war, riot, act of God, or act of governmental authority may be reconstructed and used as before if it is done within 12 months of such calamity, provided that the restored building covers no greater area or has no greater cubic content.

SECTION III

Upon the effective date of this Ordinance, the Clerk of the City shall issue a "Certificate of Non-Conforming Use" to all owners of property, the use of which does not conform to the provisions of the use zone in which the property is located.

ARTICLE III

Trailer Camps and Trailer Homes

SECTION I

A trailer camp or court is defined as a parcel of land on which there is located or intended to be located, two or more trailer homes occupied for living quarters; and the location of such trailer camps within the city limits of the Town of Portage

Des Sioux, Missouri, shall not be permitted within district set forth in Section 2 following.

#### SECTION II

Trailer Home parking within the following district is prohibited: Beginning at the point of intersection of the center line of Payne Road with the center line of Lawrence Street; thence following the center line of Lawrence Street Northwardly across Commonfield Street until the center line of Lawrence Street intersects the center line of Fourth Street; thence along the center line of Fourth Street Westwardly to the center line of Saucier Street; thence along the center line of Saucier Street Northwardly to the center line of Main Street; thence following the center line of Main Street Westwardly to the center line of LeFaivre Street; thence along the center line of LeFaivre Street Southwardly to a point which is 160 feet North of the North line of Second Street to the West line of the City Limits of the Town of Portage Des Sioux; thence South 22 degrees West and along the West line of said City Limits to the center line of Payne Road; thence South 68 degrees East and along the center line of Payne Road to the place of beginning.

#### ARTICLE IV

##### Density District

#### SECTION I

There shall be two side yards with a minimum width of each side yard of 10% of the width of the front yard, except that when one of the side yards lies adjacent to a street, such side yard must be at least twenty (20) feet wide.

#### SECTION II

Every dwelling constructed in the Town limits shall have a

set-back of at least to the existing building line or if no existing building line, then to a minimum of 30 feet.

#### SECTION III

There shall be a minimum lot area of not less than 9,000 square feet for each dwelling erected and such dwelling for one floor shall contain a minimum living space of 720 square feet. Porches, verandas, basement rooms, garages, or any other form of attached accessory structure shall not be counted.

#### SECTION IV

Every building hereafter erected or structurally altered shall be located on a lot, and in no case shall there be more than one main building and the customary accessory buildings on one lot.

#### ARTICLE V

##### Prohibited Buildings and Uses

#### SECTION I

No building, structure, or portion thereof, bus, tent, or a basement shall be hereafter erected, converted or moved onto any lot for dwelling purposes, within the City Limits of the Town of Portage Des Sioux.

#### SECTION II

No junk or automobile wrecking yard shall be operated or maintained for more than six months after the final date of passage of this Ordinance.

#### ARTICLE VI

##### General Business District

#### SECTION I

The location of all buildings erected after the passage of this Ordinance, which are intended to be used for other purposes than for family occupation, must first receive the approval

of the Zoning Commissioner.

## ARTICLE VII

### Board of Adjustment

#### SECTION I

A Board of Adjustment is hereby established. The word "Board" when used in this Section, shall be construed to mean the Board of Adjustment. The Board shall consist of five (5) members, all of whom shall be freeholders appointed by the Mayor and approved by the Town Council. The term of office of the members of the Board shall be for five (5) years, excepting that the membership of the first Board appointed shall serve respectively for the terms of one for one (1) year; one for two (2) years, one for three (3) years; one for four (4) years; and one for five (5) years. Therafter, members shall be appointed for five (5) year terms each. Vacancies shall be filled for the unexpired term only. Members shall be removed for cause by the Mayor and Town Council upon written charges and after public hearing

#### SECTION II

The Board shall elect its own chairman and vice-chairman who shall serve for one year. The Board shall adopt from time to time such rules and regulations as it may deem necessary to carry into effect the provisions of this Ordinance.

#### SECTION III

Meetings of the Board shall be held at the call of the chairman and at such other times as the Board may determine. Such chairman, or in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member upon each

question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board and shall be a public record. All testimony, objections thereto, and rulings thereon shall be taken down by a reporter employed by the Board for the purpose.

#### SECTION IV

Appeals to the Board may be taken by any person aggrieved, or by any officer, department, board, or bureau of the Town of Portage Des Sioux, Missouri affected by any decision of the Zoning Administrator. Such appeal shall be taken within a reasonable time, as shall be prescribed by the Board by general rule, by filing with the Zoning Administrator and with the Board a notice of appeal specifying the grounds thereof. The Zoning Administrator shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from is taken.

An appeal stays all proceedings in furtherance of the action appealed from, unless the Zoning Administrator certifies the Board after the notice of appeal shall have been filed with him that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board or by a court of record on application or notice to the Zoning Administrator on good cause shown.

The Board shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest, and do the same within a reasonable time.

Upon the hearing, any party may appear in person by agent or by attorney.

#### SECTION V

Jurisdiction: The Board shall have the following powers and it shall be its duty:

1. To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the Building Commissioner, or Inspector in the enforcement of this Ordinance.
2. To adopt from time to time such rules and regulations as may be deemed necessary to carry into effect the provisions of this Ordinance.
3. To permit a variation in the yard and lot area requirements of any district where there are practical difficulties or unnecessary hardships in carrying out these provisions due to the size, irregular shape of the lot, topography or other conditions.
4. To interpret the provisions of this Ordinance in such a way as to carry out the intent and purpose of the plan, as shown upon the map fixing the Residential District accompanying and made a part of this Ordinance, where the street or place layout actually on the ground varies from the street or place layout as shown on to map aforesaid.
5. To permit the erection and use of a building or the use of a premises in any location for a public service corporation or for public utility purposes necessary to the public convenience or welfare.
6. To vary or modify the application of any of the regulations or provisions of this Ordinance where there are practical difficulties or unnecessary hardships in the way of carrying out the

strict letter of this Ordinance, so that the spirit of the Ordinance shall be observed, public safety and welfare secured, and substantial justice done.

In exercising the above mentioned powers, the Board may, in conformity with the provisions of the law, reverse or affirm, wholly or partly, or may modify the order, requirement decision, or determination appealed from and may make such order, requirements, decision, or determination appealed from and may make such order, requirements, decision, or determination as ought to be made, and to that end shall have all the powers of the Zoning Administrator. The concurring vote of four(4) members of the Board shall be necessary to reverse any order, requirements, decision, or determination of the Zoning Administrator or to decide in favor of the applicant on any matter upon which it is required to pass under this Ordinance, or to effect any variation in this Ordinance.

Any person or persons jointly or severally aggrieved by any decision of the Board of Adjustment may present to the Circuit Court of St. Charles County, Missouri, a petition duly verified, setting forth that such decision is illegal, in whole or in part, and specifying the grounds of illegality. Such petition shall be presented to the court within thirty (30) days after the filing of the decision in the office of the Board.

Upon the presentation of such petition, the Court may allow a writ of certiorari directed to the Board for review of the data and records acted upon or it may appoint a referee to take additional evidence in the case. The Court may reverse or affirm or may modify the decision brought up for review.

Costs shall not be allowed against the Board, unless it shall appear to the Court that it acted with gross negligence or in bad

faith, or with malice in making the decision appealed from.

#### ARTICLE VIII

##### Occupancy Permits

##### SECTION I

No land shall be occupied or used and no building hereafter erected or structurally altered shall be occupied or used in whole or in part for any purpose whatsoever, until a certificate is issued by the Zoning Administrator, stating that the building and use comply with the provisions of this Ordinance and the building and health Ordinances of the Town of Portage Des Sioux. No change of use shall be made in any building or part thereof now or hereafter erected or structurally altered without a permit being issued therefor by the Zoning Administrator. No permit shall be issued to make a change unless the changes are in conformity with the provisions of this Ordinance.

#### ARTICLE IX

##### Plats

##### SECTION I

Each application for a building permit shall be accompanied by a plat in duplicate, drawn to scale, showing the actual dimensions of the lot to be built upon, the size, shape, and location of the building to be erected, and such other information as may be necessary to provide for the enforcement of this Ordinance. A record of applications and plats shall be kept in the office of the Zoning Administrator.

#### ARTICLE X

##### Interpretation, purpose, and Conflict.

In interpreting and applying the provisions of this Ordinance, they shall be held to be the minimum requirements for

the promotion of the public safety, health, convenience, comfort, morals, prosperity, and general welfare.

#### ARTICLE XI

##### Amendments

The Town Council may from time to time, on its own motion or on petition, amend, supplement, change, modify, or repeal by Ordinance the boundaries of districts of regulations, or restrictions herein established. Any proposed amendment, supplement, change, modification or repeal shall first be submitted to the Town Planning and Zoning Commission for its recommendations and report. If the Town Planning and Zoning Commission makes no report within thirty (30) days, it shall be considered to have made a report approving the proposed amendment, supplement, modification or change. Upon the filing of the recommendations and report by the Town Planning and Zoning Commission with respect to any proposed amendment, supplement, change, modification or repeal, the Town Council shall proceed to hold a public hearing in relation thereto, giving at least fifteen (15) days' notice of the time and place of such hearing, which notice shall first be published in a newspaper having a general circulation in the County of St. Charles Missouri.

#### ARTICLE XII

##### Enforcement, Violation and Penalty

##### SECTION I

It shall be the duty of the Zoning Administrator to enforce this Ordinance. Appeal from the decision of the Zoning Administrator may be made to the Board of Adjustment as provided in Article Five.

The Zoning Administrator in the town of Portage Des Sioux shall

be Ernest Green, who shall have all the powers, duties and responsibilities assigned to the Zoning Administrator in this Ordinance.

## SECTION II

The Zoning Administrator, as authorized may institute any appropriate action or proceeding to prevent the unlawful erection, construction, reconstruction, alteration, repair or conversion of any building or structure, or the unlawful use of land, to restrain, correct or abate such violations, to prevent the occupancy of said building, structure or land, or to prevent any illegal act, conduct, business or use in or about the premises. Whenever such acts shall be in contradiction to the provisions of this Ordinance, penalties shall be as hereinafter set forth.

## SECTION III

The Zoning Administrator shall require that the application for a building permit and the accompanying plot plan shall contain all the information necessary to enable him to ascertain whether the proposed building complies with the provisions of this Ordinance. No building permit shall be issued until the Zoning Administrator has certified that the proposed building or alteration complies with all provisions of this Ordinance.

## SECTION IV

Nothing herein contained shall require any change in the plans, construction, size or designated use of a building for which a building permit has been granted or for which plans were on file with the Zoning Administrator before the effective date of this Ordinance and the construction of which from such plans shall have been started within six months of such date.

## SECTION V

No land shall be occupied or used and no building hereafter

erected or altered shall be occupied or used in whole or in part for any purposes, until a certificate of occupancy shall have been issued by the Zoning Administrator stating that the premises or building complies with all the provisions of this Ordinance. A certificate of occupancy shall be applied for at the same time that the building permit is applied for and if approved by the Zoning Administrator shall be issued within ten (10) days after notification from the permittee that the premises are ready for occupancy.

#### SECTION VI

The owner or agent of a building or premises in or upon which a violation of any provision of this Ordinance has been committed or shall exist; or the lessees or tenant of an entire building or entire premises in or upon which violation has been committed or shall exist, or the agent, architect, building contractor or any other person who commits, takes part or assists in any violation or who maintains any building or premises in or upon which violation shall exist, shall be guilty of a misdemeanor punishable by a fine of not less than Ten Dollars (\$10.00) and not more than One Hundred Dollars (\$100.00) for each and every day that such violation continues; but if the offense be willful, on conviction thereof, the punishment shall be a fine of not less than One Hundred Dollars (\$100.00) nor more than Two Hundred Fifty Dollars (\$250.00) for each and every day such violation shall continue or by imprisonment for ten days for each and every day such violation shall continue or by both such fine and imprisonment, in the discretion of the court. Any such person, having been served with an order to remove any such violation, failing to comply with said order within ten days after such notice

or continuing to violate any provision of the regulations made under authority of this Ordinance in the respect named in such order, shall also be subject to a civil penalty of Two Hundred and Fifty Dollars (\$250.00)

ARTICLE XIII

Validity

If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance.

ARTICLE XIV

Conflicting Ordinances Repealed

Any Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

ARTICLE XV

When Effective

This Ordinance shall be in full force and effect from and after its passage as provided by law.

Passed and approved this 7th day of March, 1960.

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MAYOR

ATTEST:

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CLERK