

**PROPOSED TEXT AMENDMENTS  
NOVEMBER 21, 2023**

*The Emporia Planning Commission will consider a proposed text amendment at their November 21, 2023 meeting. The text amendment would modify certain sections of the recently adopted Emporia Zoning Regulations. The amendments to the text are as follows:*

*Sections 2.6.3 and 2.6.7 – Permitted and Conditional Uses within Commercial and Public/Civic Parcel Types. The text amendment would add nine (9) types of medical facility specific uses and remove Hospital as a specific use.*

2.6.3		PARCEL TYPES												
Commercial Uses		AG	CH	SF-D	SF-A	MF	MU	FH	FL	C	IF	LI	HI	CP
36	Licensed Medical Facilities													
	Ambulatory Surgical Center						C	C	C	C	C			
	Community Hospital Facility	P					P	P	P	P	P			P
	Critical Access Hospital						C	C	C	C	C			
	General Hospital						C	C	C	C	C			
	Independent Diagnostic Testing Facility						C	C	C	C	C			
	Rural Emergency Hospital						C	C	C	C	C			
	Recuperation Center						C	C	C	C	C			
	Special Hospital						C	C	C	C	C			
39	Medical/Dental Offices, Labs (that are not Licensed Medical Facilities)						P	P	P	P				



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2.6.7														
Public /Civic Uses		<b>PARCEL TYPES</b>												
Examples of Specific Uses		AG	CH	SF-D	SF-A	MF	MU	FH	FL	C	IF	LI	HI	CP
7	Community Hospital Facility	P					P	P	P	P				P

*In addition to the above changes in the Use Matrix, changes in text would affect; Section 8 Overlay and Other Districts, Section 9 Administration Procedures, and Section 12 Definitions. Those specific changes are as follows:*

**Section 8.9 Planned Unit Development Overlay District (PUD)**

8.9.2 General Provisions. A planned unit development shall be in general conformity with the provisions of the comprehensive plan, and shall not have a substantially adverse effect on the development of the neighboring area. The plan shall consist of a preliminary plan for development of the entire tract and for a final plan of development for individual portions of the plan.

a. Permitted uses: The applicant may propose any mixture of land uses including residential, commercial, and/or industrial uses. Provided, that notwithstanding any PUD zoning, any use within the plan or any portion thereof as a general hospital, special hospital, critical access hospital, rural emergency hospital, ambulatory surgical center, independent diagnostic testing facility, or recuperation center, to the extent any of the same are not community hospital facilities, shall require a conditional use permit as provided in Section 9.6 of these Zoning Regulations.

**Section 9.6 General Hospitals, Special Hospitals, Critical Access Hospitals, Rural Emergency Hospitals, Ambulatory Surgical Centers, Independent Diagnostic Testing Facilities, and Recuperation Centers that are not Community Hospital Facilities.**

In addition to the factors set forth in Section 9.5 and the procedures set forth in Section 9.8, the following factors and criteria shall apply to any conditional use permit for a general hospital, special hospital, critical access hospital, rural emergency hospital, ambulatory surgical center, independent diagnostic testing facility, or recuperation center, to the extent the same are not community hospital facilities.



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- 9.6.1 Any required site plan or development plan shall also include a floor plan illustrating the layout of all rooms and space within the structure or structures on the property, including as to existing structures any proposed alterations thereto, including an identification of the existing and proposed uses of each such room or space therein, and including a specific identification of the nature and extent of any accommodations for the overnight stay of any patients of the general hospital, special hospital, critical access hospital, rural emergency hospital, ambulatory surgical center, independent diagnostic testing facility, or recuperation center.
- 9.6.2 An application for the conditional use permit shall include the disclosure of the nature of the health care services to be provided, specifically including whether and to what extent any portion of the facility would constitute a general hospital, special hospital, critical access hospital, rural emergency hospital, ambulatory surgical center, independent diagnostic testing facility, or recuperation center, as those terms are defined in the Zoning Regulations.
- 9.6.3 If the application indicates that some or all of the proposed facility would constitute a general hospital, special hospital, critical access hospital, rural emergency hospital, ambulatory surgical center, independent diagnostic testing facility, or recuperation center, and which all or any portion are not a community hospital facility, the applicant shall also disclose;
1. the nature and extent of any such services to be provided in that regard,
  2. information regarding the extent to which such services are already being provided through existing community hospital facilities in the greater Emporia and Lyon County communities, and
  3. information regarding the extent to which the existing services are asserted as being inadequate to serve the current or reasonably foreseeable future community needs in this regard.
- 9.6.4 In addition to any other required findings for a conditional use permit under these Zoning Regulations, a conditional use permit for the operation of a general hospital, special hospital, critical access hospital, rural emergency hospital, ambulatory surgical center, independent diagnostic testing facility, or recuperation center (none of which being a community hospital facility) may only be granted if the Planning Commission and Governing Body find that the services to be provided through such facility are not unduly duplicative with like services being adequately provided or reasonably anticipated to be provided through existing community hospital services in the greater Emporia and Lyon County communities, provided that all other zoning regulations and restrictions are also satisfied; provided, that if the application is for an independent diagnostic testing facility, a review of such duplicative services shall be limited to computed tomography (CT), magnetic resonance imaging (MRI), nuclear medicine procedures and studies, and bone density testing (including DEXA or DXA).



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- 9.6.5 Any such conditional use permit which is issued shall include the following:
1. a specification of the extent to which such a general hospital, special hospital, critical access hospital, rural emergency hospital, ambulatory surgical center, independent diagnostic testing facility, or recuperation center (none of which being a community hospital facility) may be conducted as part of the premises;
  2. a specification of the nature and extent of the types of medical services which may be performed or provided in such general hospital, special hospital, critical access hospital, ambulatory surgical center, independent diagnostic testing facility, or recuperation center; and
  3. a prohibition upon the providing of any additional, other or different services through such a general hospital, special hospital, critical access hospital, rural emergency hospital, ambulatory surgical center, independent diagnostic testing facility, or recuperation center (none of which being a community hospital facility) without the conditional use permit being amended to allow the same.
- 9.6.6 If the Governing Body finds that the services to be provided through such a general hospital, special hospital, critical access hospital, rural emergency hospital, ambulatory surgical center, independent diagnostic testing facility, or recuperation center (none of which being a community hospital facility) are unduly duplicative with like services being adequately provided or reasonably anticipated to be provided through existing community hospital services in the greater Emporia and Lyon County communities, a conditional use permit shall be denied unless a means can be determined to condition the provision of those services under a special use permit in a manner which will avoid or properly ameliorate what would otherwise be improper negative impacts upon the continued availability and development of community hospital services. The burden of establishing the nature and adequacy of any such conditions should be upon the applicant. A final denial of the conditional use permit shall not be issued without the applicant first being provided with a reasonable opportunity to propose suitable and adequate conditions in this regard.
- 9.6.7 General hospitals, special hospitals, critical access hospitals, rural emergency hospital, ambulatory surgical centers, independent diagnostic testing facility, or recuperation centers (to the extent they are not community hospital facilities) existing and in operation on January 1, 2024, shall not be required to obtain a conditional use permit as to any existing health care services being provided therein. However, the issuance of a conditional use permit shall be required as to;
1. any new or additional health care facility structures constructed, or
  2. any change in the nature of the health care services being provided in any existing structure which would cause any portion of the existing facilities to constitute a general hospital, special hospital, critical access hospital, rural



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emergency hospital, ambulatory surgical center, independent diagnostic testing facility, or recuperation center (none of which being a community hospital facility), including any expansion or renovation of existing structures to accommodate such a change in services, or

3. as a condition of the resumption of a prior use after a period of abandonment or discontinuance as defined in these Zoning Regulations.

**Section 12 Definitions**

**Licensed Medical Facility.**

Ambulatory surgical center. An establishment, that is not a community hospital facility, with an organized medical staff of one or more physicians; with permanent facilities that are equipped and operated primarily for the purpose of performing surgical procedures; with continuous physician services during surgical procedures and until the patient has recovered from the obvious effects of anesthetic and at all other times with physician services available whenever a patient is in the facility; with continuous registered professional nursing services whenever a patient is in the facility; and which does not provide services or other accommodations for patient to stay more than 24 hours. Before discharge from an ambulatory surgical center, each patient shall be evaluated by a physician for proper anesthesia recovery. Nothing in this section shall be construed to require the office of a physician or physicians to be licensed under this act as an ambulatory surgical center. (State Law Reference: K.S.A. 65-425, as amended)

General hospital: An establishment, that is not a community hospital facility, with an organized medical staff of physicians; with permanent facilities that include inpatient beds; and with medical services, including physician services, and continuous registered professional nursing services for not less than 24 hours of every day, to provide diagnosis and treatment for patients who have a variety of medical conditions. (State Law Reference: K.S.A. 65-425, as amended)

Community hospital facility: Any public institution, place, building or agency, that would otherwise include the services or features of a general hospital, special hospital, critical access hospital, rural emergency hospital, ambulatory surgical center, independent diagnostic testing facility, or recuperation center, and which is organized as a political subdivision or an instrumentality or agency of a city or county, and which, organizationally,

(1) provides care and treatment for a broad range of medical conditions of different types;



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(2) provides emergency room services, and;

(3) provides a substantial amount of services on a free or reduced cost basis for those who do not have adequate insurance or other means to pay the normal charges for such services.

Critical access hospital: A member of a rural health network that is not a community hospital facility and: Makes available 24-hour emergency care services; provides not more than 25 acute care inpatient beds or in the case of a facility with an approved swing-bed agreement a combined total of extended care and acute care beds that does not exceed 25 beds; provides acute inpatient care for a period that does not exceed, on an annual average basis, 96 hours per patient; and provides nursing services under the direction of a licensed professional nurse and continuous licensed professional nursing services for not less than 24 hours of every day when any bed is occupied or the facility is open to provide services for patients unless an exemption is granted by the licensing agency pursuant to rules and regulations. The critical access hospital may provide any services otherwise required to be provided by a full-time, on-site dietician, pharmacist, laboratory technician, medical technologist and radiological technologist on a part-time, off-site basis under written agreements or arrangements with one or more providers or suppliers recognized under Medicare. The critical access hospital may provide inpatient services by a physician assistant, advanced practice registered nurse or a clinical nurse specialist subject to the oversight of a physician who need not be present in the facility. In addition to the facility's 25 acute beds or swing beds, or both, the critical access hospital may have a psychiatric unit or a rehabilitation unit, or both. Each unit shall not exceed 10 beds and neither unit shall count toward the 25-bed limit or be subject to the average 96-hour length of stay restriction. (State Law Reference: K.S.A. 65-468, as amended)

Independent diagnostic testing facility. A provider-based or independent facility in which diagnostic tests are performed that is independent of a hospital or physician's office and which meets the standards or requirements of, or is licensed or regulated under, 42 CFR 410.33, as amended.

Recuperation center. An establishment, that is not a community hospital facility, with an organized medical staff of physicians, permanent facilities that include inpatient beds, medical services, including physician services, and continuous registered professional nursing services for not less than 24 hours of every day, to provide treatment for patients who require inpatient care but are not in an acute phase of illness, who currently require primary convalescent or restorative services and who have a variety of medical conditions. (State Law Reference: K.S.A. 65-425, as amended)



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Rural emergency hospital. An establishment, that is not a community hospital facility, that:

- (1) meets the eligibility requirements described in K.S.A. 65-484, as amended;
- (2) provides rural emergency hospital services (as defined in K.S.A. 65-484, as amended);
- (3) provides rural emergency hospital services in the facility 24 hours per day by maintaining an emergency department that is staffed 24 hours per day, 7 days per week, with a physician, nurse practitioner, clinical nurse specialist or physician assistant;
- (4) has a transfer agreement in effect with a level I or level II trauma center; and
- (5) meets such other requirements as the Kansas department of health and environment finds necessary in the interest of the health and safety of individuals who are provided rural emergency hospital services and to implement state licensure that satisfies requirements for reimbursement by federal healthcare programs as a rural emergency hospital. (State Law Reference: K.S.A. 65-484, as amended)

Special hospital: An establishment, that is not a community hospital facility, with an organized medical staff of physicians; with permanent facilities that include inpatient beds; and with medical services, including physician services, and continuous registered professional nursing services for not less than 24 hours of every day, to provide diagnosis and treatment for patients who have specified medical conditions. (State Law Reference: K.S.A. 65-425, as amended)

