

**ORDINANCE NO. 2149**

AN ORDINANCE DEALING WITH THE DEPTHS, WIDTHS AND BOUNDARY DETERMINATIONS OF COUNCIL GROVE LAKE LEASEHOLDS.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF COUNCIL GROVE, KANSAS:

Section 1. PURPOSE. The purpose of this Ordinance is to clarify depths, widths and boundary determination procedures and repeal ordinances which are inconsistent herewith.

Section 2. DEFINITIONS.

- A. Standard Water Level. Standard water level shall mean the level of water in the lake when it is full, not running over the spillway, but at spillway level.
- B. Dwelling. A building or portion thereof that is used, designed or intended for use of human habitation for living, sleeping, cooking or eating purposes or any combination thereof. Additions to a dwelling, such as decks, garages and carports, are considered part of a dwelling.
- C. Accessory Structure. A building, the use of which is customarily accessory to and incidental to that of the dwelling and which is located on the same leasehold. Accessory structures are commonly used as garages, boat houses, picnic shelters, carports, cabanas, storage sheds and tool sheds.
- D. Portable Accessory Structure. An accessory structure that is designed, built and installed such that it can be moved from one location to another without any disassembly of the structure.

Section 3. WIDTHS OF LEASEHOLDS. The standard width of leaseholds shall be seventy-five (75) feet. However, because of the topography around the lake, the width of leaseholds on points may be more than 75 feet at the lake and less than 75 feet at the opposite end of the leasehold and leaseholds in coves may be less than 75 feet at the lake and more than 75 feet at the opposite end of the leasehold. As of the date of this Ordinance, all boundaries shared by leaseholders have been determined by boundary agreements, unappealed boundary markings, or decisions by the Boundary Board of Appeals. Once determined, all boundaries shared by leaseholders shall remain as determined.

Section 4. DEPTH OF LEASEHOLDS. The standard depth of leaseholds shall be one-hundred-fifty (150) feet measured from the standard water level of the lake frontage at the leasehold. However, in the event that any leasehold, as of August 1, 2011, contained a dwelling or non-portable accessory structure situated above the ground beyond the 150 feet depth, then the leasehold shall extend to the point of the dwelling or non-portable accessory structure furthest from the lake frontage plus 5 feet from the drip line. If any non-portable accessory structure is situated as such to exist beyond any access roads, then such leaseholds shall not include the access road, but will include a separate area beyond the access road, the footage of such to be equivalent to the drip line of such non-portable accessory structure. Once the depth of a leasehold has been determined, the owner of any portable accessory structure that is located outside their leasehold shall remove the accessory structure, relocate it to their determined leasehold or apply for a variance to allow the structure to remain on unleased city property adjacent to the leasehold.

Section 5. BOUNDARY DETERMINATION CRITERIA. When making boundary determinations, the City's designated agent shall take into consideration the criteria listed in this section. This list is non-exclusive, and other criteria may be considered. The weight to be given to any criteria shall be determined by the City's designated agent. The appeals board shall also consider this list of non-exclusive criteria when hearing appeals, and may weigh the criteria as they deem appropriate. The non-exclusive list of criteria includes:

- (a) prior agreements and understandings of adjoining leaseholders;
- (b) prior usage and expectations of adjoining leaseholders;
- (c) the physical configuration of lots;
- (d) equitable placement of the boundary considering the interest of present as well as

- future leaseholders;
- (e) equitable division of lake frontage and access;
- (f) ingress and egress to leaseholders;
- (g) location of existing access roads;
- (h) location of existing utilities;
- (i) equitable placement of the boundary considering the previously determined depths of adjoining lots; and
- (j) any other factors deemed appropriate.

Section 6. NEW DWELLINGS AND ACCESSORY STRUCTURES. When the 150 foot depth of a leasehold and other set-back requirements will not accommodate a proposed new dwelling or accessory structure, a leaseholder or a prospective purchaser of a leasehold may file with the office of the city clerk a request in writing for a boundary line adjustment to the leasehold. The requested boundary line adjustment shall be the minimum reasonable increase that will accommodate the proposed new dwelling or accessory structure. The written request shall include:

- (a) elevation and plan drawings/sketches showing the dimensions of the proposed new dwelling or accessory structure;
- (b) a copy of the plot plan for the leasehold showing the location dimensions of the proposed new dwelling or accessory structure in relation to the existing dwelling;
- (c) signed letters from the adjoining leaseholders with their comments about the proposed boundary line adjustment;
- (d) a nonrefundable fee of \$ 70 to cover the cost of evaluating the request; and
- (e) a completed leasehold transfer package, if the written request is from a prospective purchaser of the leasehold.

The City's designated agent shall evaluate the boundary line adjustment request taking into consideration the boundary determination criteria of Section 5 and mark the proposed boundaries at the leasehold. When the evaluation and marking by the City's designated agent is completed, the governing body's lake committee shall evaluate the boundary line adjustment request taking into consideration the boundary determination criteria of Section 5 and the City's designated agent's evaluation results. Thereafter, the boundary line adjustment request will be placed on the next governing body agenda along with the completed leasehold transfer package, if the written request is from a prospective purchaser of the leasehold.

The governing body shall evaluate and act on the boundary line adjustment request taking into consideration the boundary determination criteria of Section 5, the City's designated agent's evaluation results and the governing body's lake committee's recommendations. If the boundary line adjustment request was submitted by a prospective purchaser of a leasehold, the governing body shall act on the boundary line adjustment request and the leasehold transfer request concurrently. If the transfer request is denied, the boundary line adjustment request shall not be approved. However, the prospective purchaser of a leasehold may request that the governing body approve the transfer even if the boundary line adjustment request is denied.

If the boundary line adjustment is approved, the leaseholder shall pay a one-time fee equal to the annual lease fee divided by 11,250, rounded to the nearest penny, multiplied by the square footage of the boundary line adjustment. The leaseholder shall submit a Building Permit Application signed by the building contractor, and a complete set of building plans, within one year of the boundary line adjustment request approval date. If the leasehold is sold prior to the submission of the Building Permit Application, the boundary line adjustment shall lapse and the boundary line shall remain at its former placement. The building project shall be started within 180 days and completed within one year following the approval of the building permit. If the building project is not started within 180 days following the approval of the building permit, the building permit and the boundary line adjustment shall lapse and the boundary line shall remain at its former placement.

After the platting of Council Grove Lake Park has been completed and the plat has been filed with the Morris County Register of Deeds, when the building project has been completed, the leaseholder shall cause a certified land survey of the boundary line adjustment, showing the increase and the original lot with all corners marked. The survey drawing shall be acknowledged by the City Clerk with the date of the governing body's approval of the boundary line adjustment. The survey drawing shall be filed for record in the Morris County Register of Deeds by the City Clerk. The leaseholder is responsible for paying the cost of surveying the leasehold

and the cost of filing the survey drawing in the Morris County Register of Deeds.

If the boundary line adjustment request is denied by the governing body, the leaseholder shall have 14 days from that date to file an appeal to be heard by the Board of Boundary Appeals. Such appealing party shall follow the procedure set forth in Ordinances 2041 and 2047. The Board of Boundary Appeals shall follow the procedures set forth in Ordinances 2041, 2044 and 2047. Failure to timely file an appeal shall constitute a waiver of the appeal process. Failure to follow the procedural requirements of such ordinances after a timely appeal is filed shall be grounds for dismissal of the appeal.

Section 7. REPEAL. This ordinance repeals Ordinance No. 2127 and provisions of any other ordinances in conflict with this ordinance.

Section 8. EFFECTIVE DATE. This ordinance shall be effective upon its publication in the official city newspaper.

PASSED AND APPROVED by the governing body of the City of Council Grove on this 7th day of May 2014.

  
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Steven Shepard  
Mayor

ATTEST:

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Danny Matthews  
City Clerk