

ARTICLE 4.

APPLICATION PROCEDURES FOR REZONING, CONDITIONAL USE PERMITS, SPECIAL PERMITS, ACCESSORY DWELLING UNIT PERMITS, DEVELOPMENT PLAN APPROVALS OR SUBDIVISION APPROVALS, AND AMENDMENTS TO THE ZONING OR SUBDIVISION REGULATIONS

Section 1. WHO MAY PETITION OR APPLY:

- A. A proposal for a Rezoning, Conditional Use Permit, Special Permit, Accessory Dwelling Unit Permit, Development Plan, or Subdivision approval may be initiated by the Board, the Planning Commission, any Zoning Board, the owner of property affected, or upon application of the following persons:
 - 1. The lessee or the holder of an option to lease; or
 - 2. The holder of an option to purchase or real estate contract to buy; or
 - 3. An agent acting for and on behalf of the owner of the property affected.

However, all applicants referenced above in Section 1, (A)(1-3) shall, at the time of making application, provide written evidence satisfactory to the Board, that the applicants have the authority and consent of the owner to make such an application regarding the subject real property. All applicants, at the time of making application, shall enter upon the application the name, correct mailing address and phone number of the owner(s). For purposes of making an application only, the word "owner(s)" shall include all those individuals that may have a beneficial interest or ownership in the subject real property.

- B. Applications for amendments, revisions or changes to the Zoning Map or Zoning or Subdivision Regulations may also be made by the Board, an owner or person as provided in Section 1, (A)(1-3), the Planning Commission or any Zoning Board upon their own motion for final determination by the Board.
- C. Proposals initiated by the Board shall first be submitted to the Planning Commission or the appropriate Zoning Board as applicable for a recommendation as provided herein.

Section 2. PROCEDURES FOR CONSIDERATION OF A REQUEST FOR A REZONING, CONDITIONAL USE PERMIT, SPECIAL PERMIT, ACCESSORY DWELLING UNIT PERMIT, DEVELOPMENT PLAN APPROVAL, SUBDIVISION PLAT APPROVAL, OR AMENDMENT TO THE REGULATIONS:

- A. Application Procedure:
 - 1. All applications or requests shall be made to the Zoning Administrator on forms provided by the Planning Office.
 - 2. All applicants are encouraged to schedule and hold a pre-application conference with the Zoning Administrator or his or her designee as a first step toward filing an application for a Rezoning, Conditional Use Permit, Special Permit, Accessory Dwelling Unit Permit, Preliminary Development Plan, or Preliminary Plat. Arrangements for this conference shall be made by contacting the Planning Office.
 - 3. The applicant for a proposed Rezoning, Conditional Use Permit, Special Permit, Accessory Dwelling Unit Permit, Preliminary Development Plan, or Preliminary Plat shall provide the

Planning Office with a list of the names and addresses of the owners of record of all property within 1,000 feet of the property in question. Such list shall have been originated by a licensed abstractor, title company or similarly qualified person whose services have been secured by the applicant and said list shall be compiled from the official records of the County Register of Deeds and not just the apparent owners as evidenced in the real estate tax records.

4. Upon receipt of such an application and the payment of the appropriate fee as established by resolution of the Board, the Zoning Administrator shall note thereon the date of filing and make a permanent record thereof.
5. All applications shall be set down for hearing not later than sixty (60) days after receipt of a completed application. Determination that an application is complete shall be made by the Zoning Administrator who shall make such determination within twenty (20) days after the application is filed. The Zoning Administrator shall provide written notice of the reason(s) that the application was found to be incomplete, and the written notice shall suggest changes the applicant could make to complete the application.
6. Whenever an application for a Rezoning, Conditional Use Permit, Special Permit, Accessory Dwelling Unit Permit, Development Plan, or Subdivision Plat is pending, the subject real property shall not be cleared of trees or ground cover vegetation or graded without prior written approval by the Zoning Administrator.

B. Hearing and Notice Requirements:

1. All proposed Rezonings, Conditional Use Permits, Special Permits, Accessory Dwelling Unit Permits, Development Plans or Subdivision Plats regarding specific tracts of real property shall be submitted to the appropriate Zoning Board for recommendation.

All proposed amendments, revisions, or changes to the Zoning or Subdivision Regulations or to the Zoning Map, other than those changes resulting from rezoning application(s) regarding specific tracts of real property, shall be submitted to the Planning Commission for recommendation.

2. Prior to a Zoning Board making a recommendation on a proposed Rezoning, Conditional Use Permit, Special Permit, Accessory Dwelling Unit Permit, Preliminary Development Plan, or Preliminary Plat regarding specific tracts of real property, the Zoning Board shall hold a public hearing thereon and a proper record shall be made of the proceedings.

Prior to the Planning Commission making a recommendation on a proposed amendment, revision, or change to the Zoning or Subdivision Regulations or to the Zoning Map, other than those changes resulting from rezoning application(s) regarding specific tracts of real property, the Planning Commission shall hold a public hearing thereon and a proper record shall be made of the proceedings.

Notice of such public hearings shall be published once in the official County newspaper at least twenty (20) days prior to the date fixed for the hearing.

3. The published notice shall state the date, time, and place of the hearing and shall contain a statement regarding the proposed change in regulations or the zoning classification or zoning district boundaries of the property. In all cases other than amendments to the regulations, the notice shall contain the legal description and street address or general street location of the property, and its present and proposed zoning classification.

4. In addition to notice by publication, written notice of proposed Rezoning, Conditional Use Permits, Special Permits, Accessory Dwelling Unit Permits, Preliminary Development Plans, or Preliminary Plats shall be mailed at least ten (10) days prior to the hearing to all owners of record of lands located within 1,000 feet of the property as indicated on the certified list of such owners provided with the application.
 - a. The written notice shall:
 - 1). State that interested parties shall have an opportunity to be heard at the public hearing.
 - 2). Be given by certified mail, return receipt requested, and shall be in the form of a letter explaining the proposed change.
 - b. Failure to receive mailed notice shall not invalidate any subsequent action taken.
 5. Exceptions: In the case of an application to amend, revise or change the Zoning or Subdivision Regulations or the Zoning Map, other than those changes resulting from rezoning application(s) regarding specific tracts of real property, the above stated requirements shall be followed except that notice of the public hearing shall not be required to be individually mailed to all potentially affected persons. Therefore a certified list of owners shall not be required. General notice, however, shall be given by publication in the official County newspaper at least 20 days prior to the date fixed for the hearing.
 6. Any such hearing may be continued for good cause at the request of the applicant or in the discretion of the Planning Commission or Zoning Board.
- C. Action by the Planning Commission or Zoning Boards:
1. After the public hearing, the Planning Commission or the appropriate Zoning Board shall adopt its recommendations and submit the same, together with a record of the hearing thereon, to the Board of County Commissioners. In the event of a "failure to recommend," the application, together with a record of the hearing thereon, also shall be submitted to the Board of County Commissioners.
 2. For Planning Commission actions on amendments, revisions or changes to the Zoning Map or to the Zoning or Subdivision Regulations or for Zoning Board actions on Conditional Use Permit, Special Permit, Accessory Dwelling Unit Permit, Development Plan, or Subdivision Plat applications or Zoning Map amendments, revisions or changes which may result from rezoning applications, a vote either for or against the proposal by a majority of the members present shall constitute a recommendation of approval or disapproval. However, a vote either for or against a proposal by less than a majority of the members present shall constitute a "failure to recommend."
- D. Action by the Board of County Commissioners:
1. After receipt of the recommendation of the Planning Commission or Zoning Board, the Board shall consider the Amendment, Rezoning, Conditional Use Permit, Special Permit, Accessory Dwelling Unit Permit, Development Plan, or Subdivision Plat application and, notwithstanding the recommendation of the Planning Commission or Zoning Board may:
 - a. Adopt the recommendation, in whole or in part,

- 1). By resolution in the case of Amendments, Conditional Use Permits, Special Permits, Accessory Dwelling Unit Permits, Rezoning, or Development Plans, ordering that the resolution be recorded with the office of the County Clerk and providing that the action shall become effective upon such recording, or
 - 2). By motion in the case of Subdivision Plats, and authorize the Board Chairperson to endorse the plat to acknowledge the acceptance of the dedication of public ways and easements, or
- b. Disagree with the recommendation and return the application to the Planning Commission, or Airport Zoning Commission, or Zoning Board for further consideration along with a statement specifying the reasons for disagreeing, or providing suggested modifications.
 - c. Take no further action thereon, as it deems appropriate.
2. If the Planning Commission or Zoning Board submits a "failure to recommend" to the Board, the Board may take such action as it deems appropriate.
 3. If the Board returns the proposed Amendment to the Planning Commission or Rezoning or Conditional Use Permit, Special Permit, Accessory Dwelling Unit Permit, Development Plan or Subdivision Plat to the Zoning Board for further consideration, the Planning Commission shall reconsider the proposed Amendment, or the Zoning Board shall reconsider the proposed Rezoning, Conditional Use Permit, Special Permit, Accessory Dwelling Unit Permit, Development Plan, or Subdivision Plat, as returned and, within 30 days of receipt thereof, or within such lesser or greater time period set by the Board, shall either:
 - a. Submit a new recommendation to the Board; or
 - b. Resubmit the original recommendation.

No additional public hearing shall be required unless so directed by the Board.

4. If the Planning Commission or Zoning Board fails to deliver its recommendation to the Board within the prescribed time period, the Board shall consider such inaction on the part of the Planning Commission or Zoning Board as a resubmission of its original recommendation.
5. The Board, after receipt of a new or the original recommendation on the Amendment, Extension or Addition previously returned to the Planning Commission or Rezoning, Conditional Use Permit, Special Permit, Accessory Dwelling Unit Permit, Development Plan, or Subdivision Plat previously returned to the Zoning Board, shall reconsider such matter and thereafter, by resolution for Rezoning, Conditional Use Permits, Special Permits, Accessory Dwelling Unit Permits or Development Plans or by motions for Subdivision Plats, may adopt, in whole or in part, or may revise or amend and adopt all such matters, or may take no further action thereon, as it deems appropriate.
6. If the Board initiated the application, it need not return the application to the Planning Commission or Zoning Board, but may take such action as it deems appropriate after receiving the original recommendation from the Planning Commission or Zoning Board.

E. Recording of Official Actions:

1. If a Rezoning affects the boundaries of any zone or district, the resolution of the Board shall describe the change or boundaries as amended, and the Zoning Map shall be changed to reflect such amendment and shall be reincorporated as amended.
2. The resolution of the Board shall describe the boundaries of the property for which any Conditional Use Permit, Special Permit, Accessory Dwelling Unit Permit or Development Plan is approved or denied.
3. All Rezonings, Conditional Use Permits, Special Permits, Accessory Dwelling Unit Permits, Development Plans, or Variances shall become effective upon adoption by the Board.

F. Protest Petitions:

1. Regardless of whether a Zoning Board recommends approval, disapproval, or “fails to recommend” regarding an application for a Rezoning including Preliminary Development Plans for Planned Zoning Districts, Conditional Use Permit, Special Permit, or Accessory Dwelling Unit Permit, if a protest petition is filed as provided for herein, the resolution adopting such Rezoning, Preliminary Development Plan, Conditional Use Permit, Special Permit, or Accessory Dwelling Unit Permit, shall not be passed except by a favorable vote of at least 4/5 of all of the members of the Board of County Commissioners. A protest petition must be filed in the office of the Johnson County Clerk within 14 days after the date of the conclusion of the public hearing held pursuant to the publication notice. As such, in the event a public hearing held pursuant to publication notice is continued by a Zoning Board to a future date, the 14 day period will not begin to run until the conclusion of the continued hearing. However, should the Board return an application to a Zoning Board for reconsideration, a protest petition will not be accepted nor will it be valid if filed with the County Clerk following the reconsideration by the Zoning Board.
2. To be valid, the protest petition shall be, among other things, duly signed and acknowledged by the owners of 20% or more of any real property subject to the Rezoning, Conditional Use Permit, Special Permit, Accessory Dwelling Unit Permit, or Preliminary Development Plans for Planned Zoning Districts, or by the owners of 20% or more of the total area, except public streets and ways, located within 1,000 feet of the boundaries of the property subject to the Rezoning, Conditional Use Permit, Special Permit, Accessory Dwelling Unit Permit, or Preliminary Development Plan.
3. Protest Petitions must be signed and acknowledged by each and every owner(s) of property protesting a given action. The word "owner(s)" for purposes of protest petitions shall include all those individuals that may have ownership in the subject real property or property within 1,000 feet as provided in Section 2, (F)(2) of this Article. If the property is owned by joint tenancy, all such owners must sign the petition by their own hand to be valid, unless the petition itself clearly indicates that one tenant has the legal authority to sign for and on behalf of the other. In the event a corporation, partnership or other organization meets the requirements to protest an action and desires to sign a petition, the following must appear on the petition for such an organization to be counted with the petition:
 - a. The proper name in which title to their property is held; and
 - b. The address of their property; and
 - c. The name of the individual signing on behalf of the corporation, partnership or other organization; and

- d. Some indication of capacity or authorization of the individuals to sign on behalf of the corporation, partnership or organization.

Finally, the signature of each owner(s) signing the petition must be properly notarized.

Section 3. FEES:

A filing fee shall be paid at the time of application for a Rezoning, Conditional Use Permit, Special Permit, Accessory Dwelling Unit Permit, Preliminary Development Plan, Preliminary Plat, or Amendment. Filing fees shall be in the amount established by resolution of the Board. No fee shall be charged if the request is from a Zoning Board, the Planning Commission, or the Board.

Section 4. POSTING OF A SIGN:

Each applicant for a Rezoning, a Conditional Use Permit, Special Permit, Accessory Dwelling Unit Permit, Preliminary Development Plan, or Preliminary Plat shall place at least one sign upon the lot, tract or parcel of land at least twenty (20) days before the scheduled first date for the public hearing on the application. The applicant shall maintain the sign for at least the 15 days immediately preceding the date on which the public hearing is initially opened. If the public hearing is continued by the Zoning Board, the sign shall be amended or replaced to accurately describe the date, place, and time scheduled for the continued hearing. The sign shall be furnished by the Zoning Administrator to the applicant and the applicant shall firmly affix and attach each sign on the property in a place visible from adjoining streets as hereinafter set forth. Prior to the public hearing on the application, the applicant shall file an affidavit with the Johnson County Planning Office verifying that the sign has been maintained and posted as required by these regulations. Failure to submit the affidavit prior to the public hearing may result in a continuance of the hearing.

The sign(s) shall generally read as follows and shall contain at least the following information:

(REZONING, CONDITIONAL USE PERMIT, SPECIAL PERMIT, ACCESSORY DWELLING UNIT PERMIT, DEVELOPMENT PLAN APPROVAL, PRELIMINARY PLAT APPROVAL) PENDING

Application Number _____

From: (zoning district) To: (zoning district)
or for (use, number of lots, building area, etc.)
PUBLIC HEARING AT (time or location) BEFORE THE
_____ ZONING BOARD
ON (date) at (time or location)
BOARD OF COUNTY COMMISSIONERS, JOHNSON COUNTY, KS.

The sign(s) shall be removed by the applicant within ten (10) days after final action on the application. The bottom of the sign(s) shall be a minimum of two (2) feet above the ground line. The sign(s) shall be placed within five (5) feet of the street right-of-way line, in a position on the lot, tract or parcel of land as to have no visual obstructions thereto and to be readily seen by passersby. If the lot, tract or parcel of land has more than one (1) street abutting thereto, signs shall be placed facing all streets. Failure to comply with this requirement shall not deprive the Zoning Board of its jurisdiction or affect any decision, but may be due cause for the Zoning Board to refuse to hear the application or to adjourn the hearing or to require further notice.

Section 5. HEARING CONTINUANCES:

Any hearing may, for good cause shown, at the request of the Applicant, or in the discretion of the Zoning Board, be continued.

Section 6. LIMITATIONS ON REAPPLICATION:

Whenever an application requesting an Amendment, Rezoning or Conditional Use Permit, Special Permit, Accessory Dwelling Unit Permit, Development Plan or Preliminary Plat has been denied by the Board, the application or one substantially similar, shall not be reconsidered sooner than one (1) year after the previous denial. Determinations of whether an application is substantially similar shall be made by the Zoning Administrator.