

Article 4

Procedures

Section 4.100	General Procedures and Regulations
Section 4.101	Procedures for Zoning Map Amendment
Section 4.102	Procedures for Conditional Use Permit Applications
Section 4.103	Procedures for Public Hearings
Section 4.104	City Commission Review of Zoning Amendments and Conditional Uses

4.100 General Procedures and Regulations

1. The process for all zoning map amendments (including Planned Unit Development Districts) and Conditional Use permits shall include an application, a preliminary meeting with the Planning Commission, a public hearing, and the Planning Commission's recommendation presented to the City Commission.
2. Applications. All applications for zoning map amendments (including Planned Unit Development Districts) and for Conditional Uses shall be made on forms provided by the Zoning Administrator. For specific details regarding applications and procedures for zoning map amendments (including Planned Unit Development Districts) and Conditional Use permits, please see sections 4.101 and 4.102 of this Article.
3. Preliminary Meeting. The Planning Commission shall conduct the preliminary meeting in order to review the proposed change or proposed Conditional Use, to determine if the application is complete, and to request any additional information as needed. At the conclusion of the preliminary meeting, the Planning Commission must either instruct the Zoning Administrator to schedule a Public Hearing or explain to the applicant what is needed for the application to be complete. The Planning Commission must conduct a preliminary meeting before a Public hearing may be scheduled.
4. Public Hearing: All Public Hearings must be conducted in accordance with section 4.103, Procedures for Public Hearings.
5. City Commission Review. The City Commission shall review the Planning Commission's recommendation as seen in section 4.104 of this Article.

4.101 Procedures for a Zoning Map Amendment

1. All issues requiring a Public hearing shall first be submitted to the St. Marys Planning Commission for an introductory review of the issue and the completed application. Once the Planning Commission has received the issue and reviewed the completed application, the Planning

Commission shall notify the Zoning Administrator to schedule a public hearing in accordance with the provisions of Section 3.100.

2. Materials and Information. The following materials and information shall be used to process an application for a change to the zoning map and shall be considered as part of the completed application.
 - a) The applicant shall provide title or other suitable proof of ownership to the subject property.
 - b) The applicant shall provide a correct legal description of the subject property either in the form of a certificate of survey or a lot and block reference to the official city zoning map.
 - c) The applicant shall provide a sketch of the subject property drawn to scale that details the lot lines, existing features or building, drives, adjacent buildings, and the current use of existing buildings.
 - d) The applicant shall provide a written statement detailing the nature and reasons for the requested change
 - e) The applicant shall submit supporting material as requested by the Zoning Administrator depending on the magnitude of the change and the possibility of detrimental effects on surrounding properties. Supporting materials may include but are not limited to the following.
 - i. Topography at an appropriate scale.
 - ii. A Certificate of Survey.
 - iii. Environmental assessment.
 - iv. Surface water discharge analysis.
 - v. Facilities and utilities suitability analysis.
 - vi. An analysis of existing wells, tanks, and other sub-structures.
 - vii. Traffic and parking analysis.
3. Fees. The applicant shall pay all fees associated with the requested change.
4. Staff Review. After the preliminary meeting by the Planning Commission and after a public hearing has been scheduled, the Zoning Administrator shall review the application and analyze the proposal for consistency with the comprehensive plan. The Zoning Administrator shall prepare a staff report that summarizes the analysis and recommends approval or denial of the proposed change. Staff report and all documents that have been collected by the Zoning Administrator shall be submitted to the Planning Commission at least 5 days before the Public Hearing.
5. Public Hearing. The Zoning Administrator shall schedule the required public hearing only after receiving the approval of the planning commission and a completed application. The Zoning Administrator shall be responsible for placing in the official newspaper, a public notice to be published at least 20 days prior to the date of the hearing and/or to send

out the written notices to land owners of record within the prescribed distance as set forth in 4.103.3.

- a) A legal description or general description sufficient to identify the property under consideration.
- b) A statement regarding the proposed changes in the boundary or classification of any zone or district or a general description of the proposed development, subdivision, or other proposed action.
- c) The date, time, and place of the public hearing, and a clear statement that it is a public hearing at which public testimony is sought.
- d) The notice shall include a statement that a complete legal description is available for public inspection and shall state where such information is available.

4.102 Procedures for Conditional Use Permit Applications

1. Purposes of Condition Uses. The intent of these provisions is to recognize that certain uses may be appropriate only in a specific location. The Planning Commission must review the Conditional Uses Permit Application in order to evaluate the appropriateness and compatibility of the proposed use with the character of surrounding property, adequacy of services and other factors.
2. Zoning District Restrictions. The proposed Conditional Use must be listed in the approved Conditional Uses for the zoning district in which the property is located. If the proposed use is not, then the property must first undergo rezoning. A conditional use application requires a public hearing that is separate from an amendment to the zoning map. A change in zoning permits a range of uses, whereas a conditional use authorizes only one particular use as listed in the zoning district.
3. Special Regulations. An authorized conditional use shall comply with all applicable supplementary use regulations specified in Article 15.
4. Imposed Conditions. The Planning Commission is authorized to impose conditions with their recommendation to insure compliance with the criteria for review contained below in Section 4.102.7. Any additional condition shall be consistent with the requirements and context of the UDC.
5. Fees. The applicant shall pay all filing fees associated with an application.
6. Procedures for Application Review at the preliminary meeting. The following are necessary for a completed application for a Conditional Use Permit:
 - a) A written application for a Conditional Use shall be filed with the Zoning Administrator. This shall include a statement indicating

- the authorizing section of the UDC and sufficient evidence to show that the use will conform to the criteria in Section 4.102.7.
- b) All applicants for a review shall submit a site plan with their application in accordance with the submission requirements of Article 8 Site Plans. The Planning Commission is authorized to waive the site plan requirement when one is deemed unnecessary.
 - c) At the preliminary meeting, the Planning Commission shall advise the applicant of potential conflicts or deficiencies with the zoning regulations.
 - d) The Planning Commission may request additional information during their reviews at the preliminary meeting in order to better evaluate conformance with the UDC.
7. Public Hearing. After the application is deemed complete, the Planning Commission shall conduct a public hearing in accordance to section 4.103, Procedures for Public Hearings. At the public Hearing, the criteria for review of a conditional use are listed below:
- a) The location and size of the proposed use in relation to the site and to adjacent sites and uses of property, and the nature and intensity of operations proposed.
 - b) Accessibility of the property to police, fire, refuse collection and other municipal services.
 - c) Adequacy of ingress and egress to and within the site; traffic flow and control; and the adequacy of the off-street parking and loading areas.
 - d) Utilities and services, including water, sewer, drainage, gas and electricity, with particular reference to location, availability, capacity and compatibility.
 - e) The location, nature and height of buildings, walls, fences, and other improvements; their relation to adjacent property and uses; and the need for buffering or screening.
 - f) The adequacy of required yard and open space requirements and sign provisions.
 - g) The general compatibility with adjacent properties; other properties in the neighborhood; and the safety, health, comfort and general welfare of the community.
 - h) The consistency of the proposed use with the comprehensive plan.
 - i) The Planning Commission may request additional information during their reviews at the public hearing in order to better evaluate conformance the UDC.
8. The approval of a conditional use shall lapse and become void unless within two (2) years of the date of approval by the City Commission the applicant shall either:
- a) Apply for a building permit (if required) or
 - b) Engage in the conduct of the approved conditional use.

9. Approval of a Conditional Use shall be deemed to authorize only the particular use for which it is approved. A conditional use permitted by review shall run with the land.

4.103 Procedures for Public Hearings

1. Public Hearings are required for changes to the official zoning map (including PUD's, and for Conditional Use Permit applications. A preliminary meeting must be held by the Planning Commission before a public hearing is scheduled as seen in section 4.100.3 of this Article. The Planning Commission should also review Article 3, section 3.100 for clarification of their responsibilities with regards to Public Hearings.
2. After the preliminary meeting, the Zoning Administrator is responsible for scheduling the Public Hearing and for the proper execution and timing of all notifications.
3. Notifications by Mail. Prior to all public hearings, the public must be notified by either mail or by a public notice published in the official newspaper. The following are the procedures for notifications made by mail:
 - a) For zoning amendments and conditional use permit applications on property located within the city limits, the applicant must provide a list of the names and addresses of owners of all property situated within two hundred (200) feet of the property lines of the subject property boundaries. If one or more of the property lines of the property abuts the city limit boundary, then the area of notification is extended to 1000 feet for the area outside of the city limit.
 - b) For zoning amendments and conditional use permit applications on property located within the extra-territorial zone, the distance of notification for property owners increases to 1000 feet of the subject property boundaries. If one or more of the property lines abuts the city limit boundary, then the area of notification extends 200 feet for the area inside of the city limits, except for Conditional Use Permits Applications, for which the notification distance remains at 1000 feet.
 - c) This list shall be current as of the date of submission.
 - d) Persons appearing on the notification list shall be sent notice of the public hearing at least 20 days before the public hearing from the Zoning Administrator.
 - e) When the notice has been properly addressed and deposited in the mail, failure of a party to receive such notice shall not invalidate any subsequent action taken by the Planning Commission or City Commission.
4. Notifications by Publication. Prior to all public hearings, the public must be notified by either mail or by a public notice published in the official

newspaper. The following are the procedures for notifications made by publication:

- a) The Zoning Administrator shall be responsible for placing a public notice in the official newspaper. This notice must be published at least 20 days prior to the date of the hearing.
- b) The notice shall include a legal description or general description sufficient to identify the property under consideration.
- c) The notice shall include a statement regarding the proposed changes.
- d) The notice shall include the date, time, and place of the public hearing, and a clear statement that it is a public hearing at which public testimony is sought.
- e) The notice shall state that a complete legal description is available for public inspection and shall state where such information is available.

5. Conduct of Public Hearings. The following is the method of conduct for a Public Hearing.

- a) An Applicant, or an Agent for the Applicant, must be present to introduce a proposal for change, except that this rule may be waived by a 2/3 majority vote of the Planning Commissioners present. If an applicant or agent is not present, and the rule is not waived, then the Applicant shall automatically be granted an extension until the next regularly scheduled meeting of the Planning Commission. If the Applicant or Agent fails to appear at the following meeting, the matter shall be deemed void and the Applicant or Agent must reapply. If the Applicant or Agent fails to attend the first regularly scheduled hearing, they shall be assessed the full cost of public notification, including postage, abstractor search (if necessary) and a \$20.00 surcharge for reprocessing.
- b) All citizens (or their agents) attending a public hearing shall have the right to speak regarding the business at hand. The Planning Commission shall not hold a "closed meeting" or executive session, except as provided by Kansas Open Meetings Act. The Chair may set reasonable time limits for the duration of all discussions. At a public hearing, parties shall speak in the following order:
 - i. The Planning Commission Chair opens the hearing by explaining the nature of the request, its location, and the action or votes required of the Planning Commission.
 - ii. The Applicant or Agent introduces the proposal.
 - iii. The Planning Commission/Staff may ask questions to clarify any points made by the Applicant. Following

- this, any member of the public hearing may request points of clarification.
- iv. The members of the public may speak to the proposal.
 - v. A period of rebuttal shall be allowed for the applicant and those in favor or opposition.
 - vi. Final rebuttal for the applicant shall be allowed.
 - vii. The Chair shall officially close the public hearing phase of the particular business at hand.
 - viii. The Planning Commission shall debate the facts presented at the hearing.
- c) Following debate, the Planning Commission shall vote on a motion or table the item for further consideration. Decisions of the Commission shall be based upon facts entered into the record at the public hearing phase of the meeting, the recommendations of the staff, the adopted comprehensive plan, and the preservation of health, public safety, and the general welfare. Changes may be made to the proposed amendment only if the changes are directly related to facts stated by a member of the public during the public hearing portion of the discussion. If the item is not tabled for further consideration, the Planning Commission must vote to send the proposal to the City Commission with their recommendation for either approval or denial.
- d) Appropriate considerations for voting on an issue may also include the need for the proposed change, the magnitude of the change, and whether or not the change will bring harm to established property rights. Other considerations may include, but are not limited to:
- i. Demonstration of need for the change.
 - ii. The character of the neighborhood.
 - iii. The zoning designation of nearby properties.
 - iv. The suitability of the use to which the property is now restricted.
 - v. Length of time the subject property has remained vacant under the current zoning designation.
 - vi. Recommendation of the Zoning Administrator.
 - vii. The relative loss or gain to the subject property owner as compared to the relative loss of nearby property owners.
 - viii. The extent to which the proposed use will adversely affect the capacity or safety of the street or road network influenced by the use, or if the proposed uses provides adequate access roads or ingress and egress to prevent traffic hazards.

- ix. The environmental impact generated by the proposed use including, but not limited to, flooding problems, excessive storm water runoff, soil erosion and sedimentation, adverse effects on water supplies, including surface and ground waters, air pollution, noise pollution, excessive nighttime lighting or other environmental harm.
- x. The extent to which the proposed use will result in the destruction, loss or damage of any natural, scenic or historic feature.

4.104 City Commission Review of Zoning Amendments and Conditional Uses

1. For all Zoning Amendments and Conditional Use applications, the City Commission may either approve the recommendation of the Planning Commission by ordinance or override the Planning Commission recommendation by a 2/3-majority vote of the membership of the City Commission.
2. The City Commission may also return the Planning Commission's recommendation for further consideration. The Planning Commission may resubmit its original recommendation with supporting reasons, or submit a new and amended recommendation. If the Planning Commission fails to deliver either its recommendation or a letter requesting additional time for review to the City Commission following the Planning Commission's next regular meeting after receipt of the City Commission report, the City Commission shall consider such course of inaction as a resubmission of the Planning Commission's original recommendation.
3. The applicant may request a continuance by either a written request to the Zoning Administrator or seek a motion by the City Commission to grant a continuance. Any such continuance, when requested by the applicant, shall be made to a specified day.
4. The City Commission may also require additional information from either the Planning Commission or the applicant during their reviews to evaluate conformance to the requirements of the UDC.
5. For Conditional Uses and Planned Unit Developments, the City Commission may also impose additional conditions in order to insure better conformance to the requirements of the UDC. These certain conditions shall be listed on the site plans or final plats before the mayor signs them. These conditions shall be a permanent condition of the proposed use and shall not be deleted, amended or changed without the approval of the City Commission. The applicant must use the subject tract or parcel in accordance with all conditions and specifications listed on the approved site plan or final plat that has been approved by the City Commission. Any additional conditions shall be consistent with the requirements and context of the UDC.

6. A change in zoning or a conditional use shall become effective upon publication of the adopting ordinance by the City Commission.
7. If the City Commission denies the conditional use, the applicant's recourse is to District Court.