



Application for Conditional Use Permit

Name of Applicant _____

Address _____

Telephone _____

Name of Property Owner _____

Address _____

Telephone _____

Location of Conditional Use Property _____

Zoning of the property _____

Current Land Use _____

Legal description for the subject property:

Lot ____ Block ____ Subdivision ____.

Metes and Bounds:

The undersigned hereby certifies that the above information is true and correct.

Dated _____ day of _____ 2010.

Signature of applicant _____

To be completed by City Staff:

CASE NO. CU-_____

FEE: _____ REC'D BY: _____ DATE PAID: _____

SUBMISSION OF SITE PLAN: YES NO WAIVER

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. Pre-application meeting. The Zoning Administrator or the applicant may request a pre-application meeting or sketch plan review to provide an opportunity to receive the advice and assistance of the city staff. The meeting is for informational purposes only and is not a substitute for a

complete reading by the applicant of all applicable regulations, or is it to be considered as any indication of approval or disapproval by the Zoning Administrator.

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. After the preliminary hearing, the Planning Commission shall conduct a public hearing in accordance with section 4.103, Procedures for Public Hearings.

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 affects 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.

ARTICLE 8

Site Plans

8.100	Site Plans, When Required
8.101	General Site Plan Requirements
8.102	Additional Site Plan Requirements for Conditional Use Permits
8.103	Additional Site Plan Requirements for Planned Unit Developments
8.104	Additional Site Plan Requirements for the Extra Territorial Zone

8.100 Site Plans, When Required

1. The submission of a site plan is required in all conventional zoning districts, including those in the Extra Territorial Zone, when there is proposed:
 - a) New construction
 - b) Construction that changes an existing building footprint
 - c) A new accessory building or structure, or an addition or change in the location of an existing accessory (the Zoning Administrator may skip the site plan requirement for accessories at his discretion if he thinks a site plan is not necessary)
 - d) Conditional Use Permit
 - e) Further development, expansion, and / or redevelopment within a Mobile Home Park

8.101 General Site Plan Requirements

1. All site plan submissions shall include the following information and meet the following standards:
 - a) A "Site Plan Cover Sheet" (obtained from the Zoning Administrator).
 - b) Two copies of the site plan.
 - c) The size of the plans shall be approved by the Zoning Administrator.
 - d) The Applicant acknowledges that he reviewed the permitted uses of the applicable zoning district.
 - e) The site plan shall be drawn to a scale that is professionally acceptable and is suitable for the area of the proposed project. The scale used and a north arrow shall be shown on all plans within the site plan submission.
 - f) A copy of the recorded plat of the property shall be included. Information to be shown on the plat includes property

pin locations, easements, and any buildings or accessories existing or proposed on the property.

- g) The location of proposed utility connections (if applicable) shall be shown.
- h) The location of adjacent streets and or alleys (if applicable) shall be shown.
- i) The location of driveway, composition, dimensions, and parking facilities (if applicable) shall be shown.
- j) The location and nature of proposed signs (if applicable) shall be shown.
- k) The submission shall include the following signature blocks:
 - i. i. I certify that I have reviewed this site plan and will comply with all specifications, changes, and amendments herein, and that this instrument creates a legally enforceable obligation to build and develop in accordance with all final agreements.
 - ii. _____ / _____
 - iii. Applicant's Signature Date
 - iv. Approved by the City of St. Marys City Zoning Administrator this _____ day of _____, 20__.

Zoning Administrator

8.102 Additional Site Plan Requirements for Conditional Use Permits

Certain conditions may be imposed on site plans for Conditional Use Permits. For the handling of these imposed conditions, and also for the procedure required for the Conditional Use Permit application, please refer to Article 4, section 4.102, Procedures for Conditional Use Applications and Reviews.

8.103 Additional Site Plan Requirements for Planned Unit Developments

Certain conditions may be imposed on site plans for Planned Unit Developments. For the handling of these imposed conditions, and also for the procedure required for Planned Unit Developments, please refer to Article 16, Planned Unit Development District and Article 4, Applications and Procedures, section 4.104.5.

8.104 Additional Site Plan Requirements for uses in the Extra Territorial Zone (ETZ)

Below are special requirements that affect Site Plans in the ETZ:

1. Pottawatomie County is responsible for issuing any water and or sewage system permits which are required prior to commencement of any construction. County approval for this item must be obtained before construction begins.
2. Pottawatomie County is responsible for approving any roads or driveways opening onto any county roadways. County approval for this item must be obtained before construction begins.
3. The applicant shall fill out the application form for “Extra-Territorial Zones” which is provided by the Zoning Administrator.

Article 15

Supplemental Use Regulations

Section 15.100	Purpose and Intent
Section 15.101	Airports and Landing Strips
Section 15.102	Adult Uses
Section 15.103	Bed and Breakfast
Section 15.104	Campgrounds & RV Parks
Section 15.105	Communication Towers
Section 15.106	Junkyard or Salvage Yard
Section 15.107	Kennels, Breeding and Boarding
Section 15.108	Mining and Quarrying
Section 15.109	Home Businesses
Section 15.110	Top Soil Removal
Section 15.111	Temporary Uses

15.100 Purpose and Intent

1. Statement of Intent and Purpose. The purpose of the supplementary use regulations is to provide additional regulations for specific uses. Compliance with all applicable supplementary regulations shall be required for any activity listed herein prior to any development or use of the land.

15.101 Airports and Landing Strips

1. Airports and landing strips shall meet all the requirements of the Federal Aviation Administration for the particular class of field proposed to be developed.

15.102 Adult Uses or Sexually Oriented Businesses

1. Where Permitted. Adult use or sexually oriented businesses shall only be permitted in the C-3, General Commercial District.
2. Location Requirements. Adult use or sexually oriented businesses must be located not less than 1,000 feet from the uses listed below. Measurement shall be determined by using a direct line (as the crow flies) from property line to property line.
 - a) Public or private school.
 - b) Place of worship.
 - c) Park.
 - d) Licensed day care center
 - e) Another adult entertainment or adult use.
 - f) Residentially zoned property.

15.103 Bed and Breakfast

1. A bed and breakfast facility located in a residentially zoned district must be established in a residential building or a building that can be successfully readapted to a residential use. In non-residentially zoned districts the building shall be compatible in design with the surrounding area.
2. No more than eight (8) rooms may be rented to guests.
3. One full bathroom facility must be provided for each four (4) rooms for rent.
4. The owner or owner's agent must live on the premises.
5. The facility is a part of the principal use of the lot.
6. Meals served shall be limited to residents, staff, overnight customers and guests.
7. A maximum of two signs may be installed in conformance with the provisions of Article 19.
8. On-site and or off-site parking shall be provided in accordance with the provisions of Article 20.

15.104 Campgrounds and RV Parks

1. Campgrounds/RV Parks shall be utilized only for the accommodations of camping trailers, tents, recreational vehicles, and other similar camping vehicles. Under no circumstances shall campgrounds be used for mobile or manufactured homes except by the owner, agent, or guardian.
2. Campgrounds shall not be less than two (2) acres in size and located on a well-drained site that is properly graded to insure rapid discharge of storm water.
3. Campgrounds/RV Parks shall have an approved potable water supply and waste water treatment and disposal system.
4. Each site plan shall comply with the following minimum requirements.
 - a) Campground facilities, including camping spaces, shall conform to the setback distances specified for the zoning district in which the campground is located.
 - b) All camping spaces shall front on a private roadway that has an unobstructed access to a public street.
 - c) If the Zoning Administrator deems it necessary to screen adjoining property and provide privacy to the campground, a solid or semi-solid fence or wall six (6) feet high, but not more than eight (8) feet high, shall be placed between the campground and adjoining property. In lieu of a fence or wall, a landscape buffer may be used, provided that it is not less than twenty five (25) feet in width and shall be planted with coniferous and deciduous trees and shrubs so as to provide a dense screening barrier the year round. The operator shall properly maintain the fence, wall or landscape buffer.

15.105 Communication Towers

1. Radio or television towers, communication towers, microwave transmitting and/or receiving towers and/or stations, radio antennas, commercial satellite earth stations, and similar appurtenances are subject to the following:
 - a) The applicant shall present satisfactory proof that the proposed location and use is reasonably necessary to provide transmission/reception coverage for the service area.
 - b) If the tower is proposed to be located on a site where night-time warning lights would intrude in an area used for a residential purpose, the applicant shall be required to document as to why the tower cannot be reasonably located in a remote area.
 - c) Towers may be located on parcels of land that do not meet the lot size regulations of the zoning district in which they are located.
 - d) Towers shall be set back from all adjacent property lines, buildings, streets and highways a distance equal to not less than its height plus fifty (50) feet. A tower may be located adjacent to buildings owned by the applicant but must still meet all other setback requirements.
 - i. Exception: A statement is provided to the Zoning Administrator from the tower design engineer, which is stamped and signed by the design engineer, attesting to the fact the tower requires no fall zone.
 - e) The applicant or intended user of the tower shall provide documentation substantiating the technical need for the tower to be of the height stated in the site plan. The height-substantiating documentation shall be signed by a licensed professional engineer or a degreed radio frequency engineer in the employ of the applicant (or intended user) or retained by the applicant (or intended user).
 - f) The tower and accessory equipment must meet all requirements of the Federal Aviation Administration.

15.106 Junkyard or Salvage Yards

1. The use shall be located on a tract of land at least 1,000 feet from a residential use or residential zoning district.
2. The operation shall be conducted wholly within a building or within an area completely surrounded on all sides by a solid fence or wall installed in accordance with Article 21. The fence or wall shall be located no closer than fifteen (15) feet to any public right-of-way.
3. No junk shall be loaded, unloaded, or otherwise placed, whether temporarily or permanently, outside the enclosed building, fence or wall, or within the public right-of-way.

4. Burning of paper, trash, junk, or other waste materials shall not be permitted.
5. No junk, salvage, scrap or other materials shall be piled or stacked higher than the top of the required fence, or wall.

15.107 Kennels, Breeding and Boarding

1. The minimum lot size for boarding/breeding/training kennels shall be three (3) acres, unless all animals are harbored indoors; or unless the kennel is used exclusively as animal boarding facility for cats and/or dogs in conjunction with a veterinary or animal grooming operation.
2. No kennel shall be located within 1,000 feet of the nearest residential use.
 - a) Exception: A residence occupied by the owner or the operator of the kennel.
3. No kennel building or runs shall be located nearer than 100 feet to any property lines.

15.108 Mining and Quarrying

1. The applicant for a conditional use approval (See Section 4.102 regarding the conditional use approval process) for a mining and/or quarrying site shall provide for the review of the Planning Commission and the City Commission:
 - a) A site operations plan. (The term "site" as used in Section 15.108 refers to the entire property upon which the mining or quarrying operation is taking place, not just the operational area of the property.)
 - b) A time schedule for the planned extraction of rock or other materials.
 - c) A copy of the state operating license issued in accordance with the state's Surface-Mining Land Conservation and Reclamation Act (KSA 49-601 *et seq.*).
 - d) A copy of the site reclamation plan submitted to the state to obtain the license (see KSA 49-607(a)(2) and KAR 11-8-6).
 - e) A copy of the financial assurance document submitted to the state in accordance with KSA 49-608 and KAR 11-8-8.
2. The site operations plan shall address:
 - a) Noise and dust control.
 - b) The control of vehicular traffic on the site and the principal routes to be used for the transport of materials off site. The applicant shall provide documentation that the off-site roads and bridges on transportation routes within the city or Pottawatomie County are structurally capable of carrying the loads to be imposed by the transport of materials to and from the site.

- c) The maintenance of existing stream beds or how the streams will be diverted to maintain stream flow.
 - d) Storm water drainage and retention.
 - e) Site security.
 - f) Site lighting.
3. Operational Restrictions
- a) No such use shall be allowed within a 100-year floodplain, unless approved by the State of Kansas.
 - b) The operational portion of extraction sites shall be at least 500 feet from an existing residence or business unless written permission to be closer is obtained from the owner of said residence or business.
4. The City Commission may require a maintenance agreement between the applicant and the county or city to maintain the roads and bridges in the county and the city, as applicable, that provide ingress and egress to the site. If the county declines to enter into a road and bridge maintenance agreement for roads and bridges under its jurisdiction, the requirement shall be met by presentation of a copy of the county's decision.
5. The site's owner and/or operator shall provide the Zoning Administrator copies of all correspondence, reports, and notifications to the state required by KSA 49-601 *et seq.* and KAR 11-8-1 through 11-8-8. Failure to make timely submissions of these documents to the Zoning Administrator shall be grounds for revocation of the conditional use permit.

15.109 Home Businesses

1. Home occupations shall be allowed in Residential districts as follows:
- a) In residential structures including attached garages utilizing a maximum of 25 % of the gross floor area of the residence. The garage may be included in the tabulation of the gross floor area. In detached accessories structures (sheds, garages) not to exceed 50% of the gross floor area or 500 square feet which ever is greater.
 - b) Only one structure per residential lot may be used for a home business.
2. Deliveries to and from the home business shall not require the use of vehicles other than parcel post or similar service vehicles.
3. Commercial vehicles greater than one ton capacity used in the conduct of the home business shall not be parked in the public right of way.
4. No alteration of the principal residential structure shall be made that changes its residential character or appearance.
5. No mechanical or electrical equipment shall be used, nor any business activity permitted, which creates a nuisance from noise, smell, dust or other disturbance uncharacteristic of a normal dwelling unit.

6. No outdoor storage of equipment or materials used in the home business shall be permitted.
7. The home business shall be conducted by and involve the employment of only one family member and two assistants, the two assistants may be family members.
8. The home business may display a wall sign not exceeding four (4) square feet or a monument sign no larger than 3 feet by 4 feet meeting the requirements of Article 19.
9. Customary home businesses include the following uses, but are not limited to this list.
 - a) Teachers, including music, dance and drama instructors.
 - b) Dressmakers, seamstresses or tailors.
 - c) Artists, sculptors, authors, composers or photographers.
 - d) Offices of accountants, architects, engineers, attorneys, realtors, insurance agents.
 - e) Offices of salesmen, manufacturer representatives, provided no exchange of tangible goods is made on the premises.
 - f) Home crafts.
 - g) Barber shops and beauty parlors.
 - h) Hobbies, including the sale of small merchandise such as collector cards, coins, stamps, and games.
 - i) Locksmith or gunsmith.
 - j) Shoe, boot, and leather goods repair (including saddle making).
 - k) Small electronic and appliance repair.
 - l) Professional offices for health care services.
10. The following uses shall be prohibited from being classified as a home occupation.
 - a) Funeral homes.
 - b) Restaurants.
 - c) Commercial stables, kennels or animal hospitals.
 - d) Motor vehicle sales and repair.
 - e) Sale of liquor.
 - f) Sale of beer.
 - g) Motorcycle sales or repair.
 - h) ATV sales or repair.
 - i) Sale of accumulation of salvage.
 - j) Kennels or animal boarding.
 - k) Sale of dangerous animals.

15.110 Top Soil Removal Permit

1. The Zoning Administrator shall issue, upon recommendation of the Planning Commission and approval of the City Commission, a permit for the commercial removal and sale of top soil and/or fill material. This permit requirement does not cover top soil removal activities that have a valid agricultural purpose or are undertaken in preparing a site for construction

in accordance with an issued building permit. Top Soil Removal Permits shall be issued for a maximum period of one year with two allowed extensions of six months each granted by the Planning Commission. Extensions beyond this two-year period shall require specific approval of the City Commission.

2. The Planning Commission shall recommend such permit only if there is reasonable assurance that the land can be successfully restored to an acceptable state; that run-off water and erosion can be controlled during the stripping process; and that such activity, including the generation of noise, dust, and traffic associated with the removal or ultimate reclamation, will not adversely impact property values or public health and safety.
3. Upon receipt of an application for a Top Soil Removal Permit, the Zoning Administrator shall publish a notice of a Planning Commission public hearing, together with a legal description and a vicinity map of the proposed site, in the official city newspaper at least one week in advance of the public hearing. The public hearing shall be conducted in accordance with the procedures set forth in Section 3.100.6.
4. The applicant shall be responsible for supplying a list of abutting property owners (or each lot owner in a subdivision if the subdivision abuts the top soil removal site.) The Zoning Administrator shall notify by mail landowners at least one week in advance of the public hearing.
5. The applicant shall provide the following materials and information to the Zoning Administrator as part of the permit application:
 - a) A scale drawing of the removal area and adjacent properties.
 - b) The drawing shall show the topography of the site and significant drainage features.
 - c) A legal description and a vicinity map of the proposed site
 - d) A project plan that provides a time-line schedule showing all significant events, including but not limited to:
 - i. The project start date,
 - ii. The start and completion of soil removal,
 - iii. The start and completion of site restoration,
 - iv. The date set for site closure (end of all project work),
 - v. The approximate amount (cubic yards) of material to be removed shall be noted in the project plan.
 - e) A site operations plan containing the information specified in Section 15.108.2.
 - f) A site restoration plan indicating the manner and schedule for land restoration and the anticipated site topography following restoration.
 - g) A plan for compliance with state and federal storm water regulations.

6. The Planning Commission may impose reasonable conditions and operating rules designed to protect public health, safety, welfare, and property values.
7. All damage to adjacent municipal or privately owned drainage facilities, road, lanes, or other municipally or county owned property or natural watercourses resulting from the excavation, removal, or the deposit of soil shall be repaired by the permit holder.
8. All adjacent drainage facilities and natural watercourses shall be kept free of silt, clay, sand, rubble, debris, gravel, and any other matter or thing originating from any excavation or filling of any lands and causing obstruction to such drainage facilities or natural watercourses. Drainage facilities or natural watercourses shall not be polluted.
9. The City Commission shall require the applicant to deposit an irrevocable letter of credit or other acceptable financial assurance document to cover compliance with all the relevant terms and conditions of the permit, including, but not limited to the restoration of the site and the repair of damage as required in Section 15.110.6 above resulting from the removal operation. If, upon the expiration of a permit, the applicant has complied with all the relevant terms and conditions, the City Commission shall issue a release of all claims against the filed financial assurance document. If for any reason, the applicant fails to comply with the provisions or terms of the permit, the city may demand payment as set forth in the financial assurance document. The city may apply funds received to rectify any breach of the terms and conditions of the permit.

15.111 Temporary Uses

1. General Provisions. The following temporary uses are allowed in any zoning district unless prohibited in the zoning district regulations (Article 10 through 13 for a specific district).
 - a) Christmas tree sales in any commercial or industrial district for a period not to exceed sixty (60) days. Display of Christmas trees need not comply with the yard and setback requirements of this ordinance, provided that no tree shall be displayed within 25 feet of the intersection of the curb line of any two streets.
 - b) Contractors' office and equipment sheds accessory to a construction project and to continue only during the duration of such project.
 - c) Seasonal sale of farm produce grown on the premises in a residential area for not more than six (6) months per year. Structures incidental to such sale need not comply with the applicable front yard requirements if the structures are removed or moved back from the required front yard setback line at the end of the season during which they are used.
 - d) A tractor pull, sports events, large, single event auctions, craft sales, carnival, festival, or fair in commercial, agricultural, or

industrial districts, and then only for a period that does not exceed three weeks. Such uses may be placed in all other districts if all activities are located more than 300 feet from the nearest residential use. Such uses need not comply with front yard requirements, provided that structures or equipment which might block the view of operators of motor vehicles on the public streets shall not be located within thirty (30) feet of the intersection of the curb line of any two streets.

- e) The display of goods and merchandise may be conducted outside of enclosed buildings. Retail business may display merchandise of a type generally sold within the building in the area immediately adjacent to the building subject to the following conditions:
 - i. Any items displayed for sale seasonally or on a regular basis in front of a store shall be in keeping with the theme or nature of the business.
 - ii. Items displayed should be done so tastefully and safely and should be kept within 36" of a store front in order to allow safe passage of pedestrians.
 - iii. Any display should conform to ADA accessibility guidelines.
2. The Zoning Administrator shall determine that the temporary use adequately addresses parking, sanitary facilities, site impacts (including but not limited to traffic, dust, noise and activity), required health inspection certificate where applicable, and compliance with all other city codes and licenses.
 3. The Zoning Administrator may issue a temporary use permit and allow the activity to proceed.
 4. The Zoning Administrator is authorized to establish time limits for operation and set conditions as operating principles. A temporary use permit may be revoked for failure to operate within the established conditions.