

ORDINANCE NO. 4378

An Ordinance Modifying the Processing Procedure for Conditional Use Permits

BE IT ORDAINED by the Governing Body of the City of Independence, Kansas:

Section 1. Zoning code section 902.0 and its subparts are amended to read as follows in their entirety:

902.0. - Processing procedure.

902.1. Application of conditional use permit: Application for conditional uses, as designated in appendix "A" of this ordinance shall be on forms obtained from the city clerk's office. The application shall be filed with the zoning administrator at least 30 days prior to the regular city planning and zoning commission meeting at which the proposed conditional use will be considered. As determined by the zoning administrator, the application shall include any or all of the following items deemed relevant by the zoning administrator, plus any other information or materials not listed below which the zoning administrator deems relevant:

- a. Statement of intended use of the property.
- b. Site plan, drawn at appropriate scale, showing existing and proposed building location, parking areas, interior drives, and location and type of outdoor lighting.
- c. Existing and proposed topography, drawn at appropriate contour intervals as specified by the zoning administrator.
- d. Location of, and proposed connections to, existing water supply and sanitary sewer systems.
- e. Description of architecture and exterior materials to be utilized.
- f. Names of the landowner, developer and firm preparing the plan.
- g. Legal description of the tract.
- h. North point, scale and date.

902.2. Action by the planning commission: Upon receiving the application for conditional use permit from the zoning administrator, the planning commission shall publish notice and hold public hearing on the proposal. Procedures for public hearings shall be handled the same as a zoning amendment as described in section 1603.0 of the zoning code. If the planning commission determines that additional information should be provided to it before



making a decision, the planning commission may adjourn the public hearing to a new date and require the applicant to provide such additional information. The decision of the planning commission to recommend approval or denial of the proposed conditional use shall be based on any or all of the following criteria which the planning commission determines to be relevant:

- a. The proposed conditional use complies with all applicable provisions of these regulations, including intensity of use regulations, yard regulations and use limitation.
- b. The proposed conditional use at the specified location will contribute to and promote the welfare or convenience of the public.
- c. The proposed conditional use will not cause substantial injury to the value of other property in the neighborhood in which it is to be located.
- d. The location and size of the conditional use, the nature and intensity of the operation involved in or conducted in connection with it, and the location of the site with respect to streets giving access to it are such that the conditional use will not dominate the immediate use of the neighboring property in accordance with the applicable zoning district regulations. In determining whether the conditional use will so dominate the immediate neighborhood, consideration shall be given to:
 1. The location, nature and height of buildings, structures, walls and fences on the site, and
 2. The nature and extent of landscaping and screening on the site.
- e. Off-street parking and loading areas will be provided in accordance with the standards set forth in these regulations (article VII).
- f. Adequate utility, drainage, and other such necessary facilities have been or will be provided.
- g. Adequate access roads or entrance and exit drives will be provided and shall be so designed to prevent traffic hazards and to minimize traffic congestion in public streets and alleys.

902.3. Additional requirements: In consideration of requests for any conditional use permits the planning commission shall recommend to the governing body such conditions of use as it deems necessary to protect the best interests of the city, and the surrounding property and to achieve the objectives of this ordinance. These additional requirements shall include, but not be limited to, those special provisions applying the miscellaneous conditional uses, specified in article X.

A violation of a requirement, condition, or safeguard shall be considered a violation of this ordinance, and grounds for the zoning administrator to terminate and cancel such conditional use permit.

902.4. *Time limit:* The planning commission may recommend to the governing body a time limitation on the conditional uses specified in appendix "A" of this ordinance. Said conditional use permit shall be renewable at the discretion of the governing body.

902.5. *Action by the governing body:* Upon hearing and consideration of the proposed conditional use, the planning commission shall at the earliest date possible, submit its recommendation to the governing body for final action along with the reasoning for its recommendation plus all materials considered by it in reaching its recommendation. Within 30 days of receipt of the recommendation from the planning commission, the governing body shall adopt, modify or deny the planning commission recommendation. The action of the governing body shall be final.

902.6. *Remand:* In lieu of making a final decision, the governing body may elect to remand the matter to the planning commission for further consideration. In doing so, the governing body shall provide its reason for remand to the planning commission. The planning commission shall then reconsider the application at its first available meeting and follow the procedures outlined in section 902.2. The planning commission shall adopt a recommendation which shall be again submitted to the governing body which shall follow the procedures outlined in section 902.5.

902.7. *Final approval:* The applicant's compliance with all terms and conditions of the conditional use permit shall be the responsibility of the zoning administrator. The zoning administrator shall communicate with the building inspector for the city regarding compliance prior to issuance of a building permit to the applicant.

Section 2. This Ordinance shall take effect upon its publication in the official City newspaper.

Adopted by the Governing Body of the City of Independence, Kansas, on the 23rd day of December, 2021.



ATTEST:

Louis Ysusi

LOUIS YSUSI, Mayor

David W. Schwenker

DAVID W. SCHWENKER, City Clerk

State of Kansas, Montgomery County
This instrument was filed for
Record on December 30, 2021 8:55 AM
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Fee: \$0.00 202105245



Marilyn Calhoun

Marilyn Calhoun, Register of Deeds