

Article 9

Land Use Determination Procedures

Section 9.1	Zoning Amendment Applications
Section 9.2	Procedures for Public Hearings
Section 9.3	Planning Commission Review for Zoning Amendment
Section 9.4	Governing Body Review of Zoning Amendments
Section 9.5	Determination of Building Permits
Section 9.6	Determination of Accessory Uses Generally
Section 9.7	Non-Conforming Uses.

9.1 Zoning Amendment Applications

A. Procedures. All applications for a change to the zoning text or official zoning map shall be made on forms provided by the Zoning Administrator. The Governing Body or Planning Commission may initiate the amendment of the zoning text or official zoning map.

B. Materials and Reviews. The following materials and procedures shall be used to process an application for a change to the Zoning Map or Text:

1. The applicant shall provide title or other suitable proof of ownership to the subject property.
2. 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 Map.
3. 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.
4. 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:
 - a). Topography at an appropriate scale.
 - b). A Certificate of Survey.
 - c). Environmental assessment.
 - d). Surface water discharge analysis.
 - e). Facilities and utilities suitability analysis.
 - f). An analysis of existing wells, tanks, and other sub-structures.
 - g). Traffic and parking analysis.
5. The applicant shall 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 site. This list shall be current as of the date of submission. Persons appearing on said list will be sent notice of the public hearing in compliance with statutory requirements. If the city proposes a zoning amendment to property adjacent to the city's limits, the area of notification of the city's action shall be extended to at least 1,000 feet in the unincorporated area. In addition, the responsible fire protection district (if any), affected school districts, affected park districts, and affected sanitary and/or drainage district shall appear on a separate list of notification. Additional parties, specified by the applicant, may appear on the notification list.

6. If requested by the Zoning Administrator, the applicant shall provide a written statement detailing the nature and reasons for the requested change.
7. All materials to be submitted by applicant shall be given to the Zoning Administrator at least 30 days in advance of a public hearing.
8. A Rezoning Fee, established within the Fee Schedule for the Unified Development Code, shall be submitted with the rezoning application.

9.2 Procedures for Public Hearings

- A.** All recommendations for an amendment to the zoning text or official zoning map shall first be submitted to the Edgerton Planning Commission for recommendation. The Planning Commission shall conduct a public hearing in accordance with the procedures for public hearing for zoning changes as listed in Article 8, Section 8.1 part F.
- B.** Notice of a hearing for a zoning map amendment shall be published once, at least 20 days in advance of the hearing, in the official city newspaper pursuant to KSA 12-757.
- C.** The applicant shall mail a copy of said publication notice by U.S. Mail, certified, return receipt requested and prepaid, to each owner of record of land within a distance of two hundred (200) feet of the perimeter of such proposed change, at least twenty (20) days prior to said hearing; sufficient copies of said notice for such purpose to be provided by the City Clerk. At least twenty (20) days prior to the date set for hearing, the applicant shall file with the City Clerk a (Johnson County AIMS property ownership map) of the land in question, drawn to scale, showing all tracts within a distance of two hundred (200) feet of the perimeter and the ownerships of each such tract.
- D.** The applicant shall place a sign on the property informing the general public that a public hearing will be held at a specific time and place concerning the proposed rezoning. The sign shall be placed in a conspicuous location on the property to provide visibility to the general public. The sign shall be furnished by the city to the applicant, and the applicant shall maintain the sign for at least twenty (20) days immediately proceeding the date of the public hearing. If a lot, tract or parcel of land is larger than five (5) acres, multiple signs shall be posted.

9.3 Planning Commission Review for Zoning Amendment

- A.** The procedures for zoning amendment changes shall be the same as listed in Article 8, Section 8.1 part F 3 and 4.

9.4 Governing Body Review of Zoning Amendments

- A.** The procedures for zoning amendment changes shall be the same as listed in Article 8, Section 8.1 part G-3.

9.5 Determination of Building Permits

- A. Exemption From Building Permits.** The following uses shall be exempt from building permits:
 1. Wires, poles, cables, CATV.

2. A child's playhouse; play equipment.
3. Any building or facility owned by the City of Edgerton.
4. Renovation or finishing of a residential structure that does not result in an increase of the gross square feet of the building unless required by the City of Edgerton for Code Enforcement.
5. Satellite communication devices. (Ord. 880, 2010)

B. Building Permits Required. The following uses require building permits:

1. The erection, renovation, relocation of any structure not listed in "exempt from permit" above.
2. Decks; porches; fences; patios, shelters, gazebos.
3. Accessory uses.
4. Additions to buildings.
5. Any building used for an agricultural purpose.
6. Renovation of any non-residential building that, in the opinion of the Zoning Administrator, results in a "substantial change."
7. Signs and advertising devices (see sign permits).
8. Location or relocation of a manufactured home.
9. Accessory storage sheds (prefabricated or custom). (Ord. 880, 2010)

9.6 Determination of Accessory Uses Generally

A. Defined. An accessory use is a structure or activity used in support of and in conjunction with a permitted principal use. No building permit shall be issued for an accessory use unless a permit is also issued for a principal use.

B. Permitted. The following uses shall be considered "accessory:"

1. Structures used in conjunction with and support principal uses such as a garage; deck; patio; storage building; carport; parking pads.
2. Solar collectors;
3. Home occupations.
 - a. No home occupation shall generate vehicular traffic, noise, parking, sewage or water use that is in excess of what is normal in a residential district.
 - b. Deliveries to and from the home occupation shall not require the use of vehicles other than parcel post or similarly service vehicles.
 - c. Commercial vehicles greater than one-ton capacity shall not be parked at the location of the home occupation operator, including the public right-of-way or private driveway.
 - d. There shall be no exterior alteration of the principal structure that changes its residential character or appearance.
 - e. No mechanical or electrical equipment shall be used, nor any business activity permitted, that creates a nuisance from noise, smell, and dust or the disturbance uncharacteristic of a normal residential district.
 - f. No outdoor storage of equipment or materials used in the home occupation shall be permitted.
 - g. The home occupation shall be conducted by and involve the employment of only the residents of the dwelling unit.

- h. A permit to establish a home occupation is required.
- i. A Home Occupation Permit Fee, established within the Fee Schedule for the Unified Development Code, shall be submitted with the home occupation permit application.
- j. The following uses shall be prohibited from being classified as a home occupation.
 - 1). Automobile repair service
 - 2). Funeral homes
 - 3). Restaurants
 - 4). Commercial stables, kennels or animal hospitals
 - 5). Retail or wholesale sales
 - 6). Manufacturing of goods
- 4. Storage buildings, loading docks; generators, assembly areas, natural materials storage, outside storage of goods and products, parking areas, vehicle storage, loading docks, 2 - way radio transmitting towers 60 feet or less in height; refuse collection areas; cooling towers; quarters for protective or security personnel. Those accessory structures and buildings specifically listed in the manufacturing district regulations of this ordinance.

C. Prohibited. The following shall be prohibited as accessory uses:

- 1. Shipment cartons used for storage purposes in conjunction with a residence.
- 2. Box cars; truck beds; RV's; buses, tractor trailer beds used for storage in conjunction with a residence or on a vacant lot.

D. Exceptions. The Board of Zoning Appeals may issue an exception to permit an accessory use when, in the opinion of the board, such use would support and compliment the principal activity of the land.

E. Temporary Construction Activities. The Planning Commission is authorized to review and approve the use of property during times of construction, reconstruction, or adaptation to permit temporary living quarters for construction personnel, offices, buildings for storage, outdoor storage, machinery yards, portable concrete or asphalt mixing plants, sanitary facilities, and similar uses.

9.7 Non-Conforming Uses

A. Defined. A previously legal conforming use (non-conforming use) is a vested property right that runs with the land. Therefore, the use cannot be lost from a sale or transfer of the land. The distinction arises from a use of the land that is lawful but, due to a change in regulations, no longer "conforms" to current ordinance requirements.

B. Existing Use. Any structure, building or use of the land lawfully existing before the effective date of the adoption of this ordinance shall be allowed to continue unchanged.

C. Restrictions. The following restrictions shall apply to all non-conforming uses:

- 1. A previously legal structure or building, but not a sign, that is damaged by fire, flood, wind or other disaster to the extent of 51 percent or more of the assessed value of the building, must be reconstructed in a manner that is more conforming to the provisions of these regulations (a sign must be reconstructed in a manner that conforms to present regulations). Such building shall be restored within a period of

six (6) months, provided that when such restoration becomes involved in litigation, the time requirement for such litigation shall not be counted as a part of the six months allowed for reconstruction. The Board of Zoning Appeals is hereby authorized to grant variances to this provision when it can be shown in a compellable manner that the property owner would be left homeless, or in an unsafe position; or, this provision would work to create an untenable and unfair economic hardship; or, that the owner is left with no practical or reasonable use of the land.

2. A previously legal use may not be changed, altered, or expanded beyond 25% in area unless the contemplated change would:
 - a). Result in greater conformity.
 - b). Correct deficiencies required for licenses or permits.
 - c). Correct deficiencies that would endanger the life, safety, or health of the public or property owners.
3. A previously legal building or use of the land which is abandoned for a period of one (1) year or more shall thereafter not be resumed unless it is in greater conformance to the district regulations.
4. Any use which is accessory to a previously legal conforming use shall not continue if the principal use or structure is abandoned unless a variance is issued by the Board of Zoning Appeals.

D. Certificate of Non-Conformity.

1. Any owner may request that the Zoning Administrator issue a Previously Legal Conforming Use Certificate which specifies: (1) The reason(s) for the conflict with the ordinance; (2) The manner or means of bringing the facility into greater conformity; and, (3) the restrictions placed on the facility.