

CHAPTER 1113
Conditional Zoning Certificates and Specially Permitted Uses

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1113.01 PURPOSE

The purpose of the provisions of this Chapter is to provide for the issuance of Conditional Zoning Certificates where conditionally permitted uses are provided for, and Special Zoning Permits where specially permitted uses are provided for in this Zoning Ordinance.

1113.02. APPLICATION PROCEDURES

All applications for a Conditional Zoning Certificate or a Special Zoning Permit shall be submitted to the Zoning Inspector on forms provided for that purpose by the Zoning Inspector. Each application shall be accompanied by the payment of a fee as specified in Chapter 1111 of this Ordinance. Applicants will be required to submit the following information along with the completed application form:

- (a) Cover Letter: A letter, submitted by the applicant which describes the proposed project and what it encompasses. Such letter shall be of no specific form but shall be as descriptive as possible.

- (b) Architectural Plan: The applicant shall submit two (2) copies of an architectural plan of the proposed project showing exterior elevations and floor plans. If exterior elevations are not available, reasonable graphic representations may be submitted.
- (c) Site Plan: The applicant shall submit twelve (12) copies of a site plan of the proposed project showing the following items:
 - (1) General Vicinity Map
 - (2) Property Boundary Lines
 - (3) Elevation Marks & Contours
 - (4) Traffic & Circulation Plan
 - (5) Adjacent Streets
 - (6) Parking & Loading Plan
 - (7) Landscaping Plan
 - (8) Grading & Surface Drainage Plan
 - (9) Utilities Plan
 - (10) Proposed Signage
- (d) Property Owner List The applicant shall obtain the names and addresses of property owners within 200 feet of the property lines of the property being considered. The names and addresses shall be those that appear on the County Auditor's current tax list or the County Treasurer's mailing list.
- (e) Tax Map Page: The applicant shall submit a copy of each and every tax map page used to obtain the list of names of property owners being submitted by the applicant.
- (f) A statement supported by substantiating evidence regarding the requirements enumerated in 1113.05(a) or (b).

1113.03. SUBMISSION OF APPLICATION

Once a completed Conditional Zoning Certificate or Special Zoning Permit application has been received, the Zoning Inspector shall place it on the agenda of the next applicable Planning Commission meeting. Prior to this meeting the following procedure shall be followed:

- (a) **Administrative Review:** The Zoning Inspector shall circulate copies of the submitted site plans to the following departments or committees: Engineering and Building, Police, Fire, Health, Community Development and the Architectural Advisory Board. Each reviewer shall submit their comments on the project on the form provided. In a situation where comment sheets are not returned by the deadline designated on the sheet, the reviewing department shall be deemed to be in violation of the requirements of this Ordinance. Every attempt will be made to allow for as much review time as possible.
- (b) **Comment Review Conference:** Once all department comments have been returned, the Zoning Inspector may arrange, if necessary, a meeting with the applicant or project representative to discuss any negative comments. Representatives of the reviewing departments may be required to attend this conference, if necessary. The purpose of this conference shall be to allow the applicant to discuss comments with the City Administration so that any needed revisions may be made prior to the actual Planning Commission meeting.
- (c) **Notification:** The date, time and place of the Planning Commission public hearing involving the review of the request for a Conditional Zoning Certificate or Special Zoning Permit shall be published in each of the following ways:
 - 1. Once in a newspaper of general circulation in the City at least fifteen (15) days prior to the date of the hearing.
 - 2. Written notice of the hearing shall be mailed by the Zoning Inspector by certified mail at least fifteen (15) days before the date of the public hearing to the owners of property within and contiguous to and directly across the street from any part of the property or 200 feet from the property, whichever is greater, and the addresses of such owners shall be those as appear on the County Auditor's current tax list or the Treasurer's mailing list. The notice shall include an indication to such owners the intent of the Conditional Zoning Certificate or Special Zoning Permit request to be considered by the Commission at the public hearing.
 - 3. The applicant shall post a sign advertising the proposed project, the date and time of the initial Public Hearing. The sign will be provided to the applicant by the Community Development Department and shall be posted at the site not less than seven (7) days prior to the date of the initial Public Hearing. (Ord. 1999-24; Passed 2-3-99)

1113.04. PLANNING COMMISSION REVIEW

The Planning Commission shall hold a public hearing to review the proposed development as presented on the submitted application, plans and specifications in accordance with the standards established in this Zoning Ordinance. The Commission may also take into account comments from the administration or the general public in its evaluation of the project. Whenever it feels necessary, the Commission may attach conditions to the approval of a Conditional Zoning Certificate or Special Zoning Permit in order to insure the health, safety or welfare of the public as well as the integrity of an existing neighborhood in proximity to the development.

- (a) Special Studies Required: In the event that the Planning Commission feels that additional information is necessary in order to make its decision, it may instruct the applicant or the administration to conduct additional studies, or seek expert advice. The cost of such studies shall be borne by the applicant but in no event shall such cost exceed one thousand (1,000) dollars, which sum shall be on deposit with the City, upon request of the Commission.
- (b) Decision: The Planning Commission shall approve or disapprove all applications for Conditional Zoning Certificates or Special Zoning Permits to come before it within sixty (60) days of the initial public hearing. Such period may be extended by the Commission in the event that additional studies are required.

1113.05. BASIS OF DETERMINATION

The applicant shall be required to establish by clear and convincing evidence that the general standards of this Zoning Ordinance, this Chapter and the specific standards pertinent to each proposed use shall be met throughout the period of the proposed use. The Planning Commission shall determine compliance or non compliance and shall insure that the general standards, the specific standards and other terms of this Ordinance pertinent to the proposed use shall be satisfied by the completion and operation of the proposed development.

- (a) General Standards: The Planning Commission shall review the particular facts and circumstances of each proposed use in terms of the following standards and shall find that such use of the proposed location:
- (1) Will be harmonious with and in accordance with the general objectives or with any specific objective of the Land Use and Thoroughfare Plan (Comprehensive Development Plan) of current adoption;
 - (2) Will be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such use will not change the essential character of the same area;
 - (3) Will not be hazardous or disturbing to existing or future neighboring uses;
 - (4) Will not be detrimental to property in the immediate vicinity or to the community as a whole;
 - (5) Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures; or that the persons or agencies responsible for the establishment of such use shall be able to provide adequately any such service including refuse disposal; and

- (6) Will have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding public streets or roads.
- (b) Additional Standards For Special Zoning Permit Uses: The Planning Commission shall review each Special Zoning Permit application for conformance to the following additional general standards:
 - (1) That the proposed use will not be contrary to the public interest or injurious to nearby properties.
 - (2) That the proposed use will not enlarge or encourage the development of a blighting influence.
 - (3) That the establishment of an additional regulated use in the area will not be contrary to any program of neighborhood conservation.
 - (4) That all applicable regulations of this Section will be observed.

1113.06. ISSUANCE OF CERTIFICATE OR PERMIT

Only upon conclusion of hearing procedures relative to a particular application through adequate review and study may the Planning Commission authorize issuance of a Conditional Zoning Certificate or Special Zoning Permit. Once this approval has been authorized, the Zoning Inspector shall issue the Zoning Permit as specified in Section 1111.05(c).

1113.07. REAPPLICATION

No applicant for a Conditional Zoning Certificate or Special Zoning Permit which has been denied wholly or in part by the Planning Commission shall be resubmitted until the expiration of one year or more from the date of such denial, except on the grounds of newly discovered evidence as proof of changed conditions which would be sufficient to justify reconsideration as determined by the Commission. Each reapplication shall be accompanied by a fee as specified in Section 1111.14.

1113.08. COMPLIANCE WITH GRANTED CONDITIONS AND REVOCATION OF CERTIFICATE OR PERMIT

Prior to the issuance of a Certificate of Occupancy and from time to time thereafter, or upon the receipt of a complaint lodged with the Zoning Inspector concerning uses and/or operations directly or indirectly associated with a Conditional Zoning Certificate or Special Zoning Permit, the Zoning Inspector shall conduct an inspection of the premises in question to assure compliance with the granted conditions or the validity of a particular complaint. The breach of any condition, safeguard or requirement shall automatically invalidate the Certificate or Permit granted and shall constitute a violation of this Ordinance. Such violation shall be punishable as per Section 1111.12.

1113.09. COMPLIANCE WITH OTHER LAW

All uses and associated premises, structures, activities, roads, parking areas, utilities and construction, established after the effective date of this Zoning Ordinance shall be in compliance with City Subdivision Regulations, Building Code, Health Code, Housing Code and all other applicable regulations.

1113.10. TERMINATION

The Conditional Zoning Certificate or Special Zoning Permit shall become void at the expiration of one year after the date of approval unless zoning permits have been obtained and the construction is started or the use is changed.

CHAPTER 1115
Board of Zoning Appeals

1115.01	Board Established	1115.09	Powers And Duties
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1115.01 BOARD ESTABLISHED

There shall be a Board of Zoning Appeals which shall have the power and duties prescribed by law and by this Zoning Ordinance.

1115.02. COMPOSITION AND APPOINTMENT

(a) Composition - The Board of Zoning Appeals shall consist of five (5) members appointed by City Council. A member serving on the Board at the time of the official adoption of this Ordinance may complete the term of their original appointment, but in the event of the death or resignation of such member, Council shall fill the vacancy for the unexpired portion of the term of that member.

(b) Appointment - All appointments made subsequent to those described in subsection (a) hereof shall be for a period of three (3) years. The members of the Board shall be residents of the City of Kent and shall serve without compensation.

1115.03. ORGANIZATION

The Board of Zoning Appeals shall elect a chairman from its membership, shall appoint a recording secretary, and shall prescribe rules for the conduct of its affairs.

1115.04. QUORUM

Three (3) members of the Board of Zoning Appeals shall constitute a quorum and a concurring vote of three (3) members of the Board shall be necessary to effect an order or resolution.

1115.05. MEETINGS

Whenever there are matters to come before the Board, the Board shall meet on the third (3rd) Monday of each month, at the call of its Chairman or at other such times as it may determine. Whenever the third (3rd) Monday of the month falls on a legal holiday, that meeting shall be scheduled for the fourth (4th) Monday of each month. All meetings of the Board shall be open to the public. (Ord. 2000-52. Passed 7-5-00).

1115.06 WITNESSES

The Chairman of the Board of Zoning Appeals may direct the Law Director, or his/her designee to administer oaths and compel by issuance of a subpoena, the attendance of witnesses in all matters coming within the purview of the Board and take testimony of any and all persons appearing before it.

1115.07 PROCEEDINGS

The Board of Zoning Appeals shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact and the Board shall keep records of its official actions which shall be filed in the Office of the Zoning Inspector within ten (10) days and the same shall be a public record.

1115.08 PLANNING COMMISSION REVIEW

The Board of Zoning Appeals may request in writing an advisory opinion from the Planning Commission on any question. The Commission shall submit a written report to the Board of such advisory opinion within thirty (30) days of its receipt of such request.

1115.09. POWERS AND DUTIES

- (a) Appeals. The Board of Zoning Appeals shall hear and determine all appeals from any decision or action of the Zoning Inspector in the administration or enforcement of the Zoning Ordinance. The Board of Zoning Appeals shall hear and determine all appeals from the refusal of the Zoning Inspector or Planning Commission to issue zoning certificates or conditional zoning certificates. The Board may decide appeals by reversing or affirming, wholly or in part, or by modifying such decision, action or refusal.
- (b) Variances.
 - (1) When practical difficulties, unnecessary hardship or results inconsistent with the general purpose of the Zoning Ordinance result through the strict and literal interpretation and enforcement of the provisions thereof, the Board shall have the authority, subject to the provisions of this chapter, to grant upon such conditions as it may determine, such variances from the provisions of the Zoning Ordinance as may be in harmony with its general purpose and intent, so that the spirit of the Zoning Ordinance shall be observed, public safety, health and welfare secured and substantial justice done. The Board may grant a variance as applied for or a variance constituting a modification thereof. In granting a variance, the Board may attach thereto such conditions relating to the location of the proposed structure or use, or the duration of the variance as it may deem necessary in order to further the purposes of the Zoning Ordinance. The Board may require such evidence and guarantee or bond as it may deem necessary to insure that all such conditions so attached are being and will be complied with.
The Board shall not have the authority to authorize, through the granting of a variance, a change in the use of any parcel of land.

- The Board is not empowered to change the zoning classification for any zone district, but may in such instances as desired initiate an amendment to the Zoning Ordinance in accordance with Chapter 1117.
- (2) In carrying into effect its powers to grant or to recommend variances, the Board shall be guided by the following criteria:
- (a) In general, the power to authorize a variance from the terms of this Zoning Ordinance shall be sparingly exercised and only under peculiar and exceptional circumstances.
 - (b) Any variance granted shall be the minimum needed to alleviate the difficulty or hardship involved.
 - (c) A limitation upon the financial gain from the land in use shall not in and of itself constitute a hardship.
 - (d) Any difficulty or hardship constituting the basis for a variance shall not be self-created.
 - (e) Mere evidence that a variance was previously granted under similar circumstances shall not be considered sufficient grounds for granting a variance.
- (3) In every instance where the Board grants or recommends a variance, there must be a finding by the Board that:
- (a) The strict application of the provisions of the Zoning Ordinance would result in practical difficulties or unnecessary hardship inconsistent with the general purpose and intent of the Zoning Ordinance.
 - (b) There are exceptional or extraordinary circumstances or conditions applying to the property involved or to the intended use or development of the property that do not apply generally to other properties or uses in the same zoning district. (Ord. 1990-53. Passed 8-13-90.)
 - (c) The granting of such variance will not be of substantial detriment to the public interest or to adjacent property or improvements in such district in which the variance is sought, and will not materially impair the purpose of the Zoning Ordinance.
- (c) Interpretation - The Board of Zoning Appeals shall, upon application filed as hereinafter provided, have the power to hear and decide any question involving the interpretation of any provision of the Zoning Ordinance, including a determination of the exact location of any district boundary if there is uncertainty with respect thereto. In considering an interpretation of the Zoning District Map, the Board shall give due regard to the nature and conditions of all adjacent uses and structures as well as the public interest.

1115.10. APPLICATION PROCEDURES

All applications for appeals, variances or interpretations must be filed on forms prescribed by the Board of Zoning Appeals and the Zoning Inspector. All such applications shall be submitted, completed in full and accompanied by the appropriate fees as specified in Section 1111.14(b)(1). In the event that an application is submitted which is incomplete or which is not accompanied by supporting documents or data

as required on the application, it may be returned to the applicant for refileing. It shall be the applicant's responsibility to obtain and submit accurate information. The following information will be required as part of the completed application:

- (a) Interpretations:
 - (1) Form completed by applicant which identifies in specific, the Section or District Boundary in dispute. The Board may table its decision on any such request which it feels is unclear until such time as it is clarified to their satisfaction.

- (b) Appeals:
 - (1) Form completed by applicant which specifies the decision, action or refusal involved as well as the grounds for the appeal.
 - (2) Such appeal must be filed with the Zoning Inspector within fifteen (15) days of the receipt of the alleged adverse decision, action or refusal. The date of receipt shall be established by the date which is marked on the Certified Mailing's return receipt.
 - (3) A list showing the names and addresses of property owners within 200 feet of the property lines of the property being considered. The names and addresses shall be those that appear on the County Auditor's current tax list or the County Treasurer's mailing list.
 - (4) A certified copy of each and every tax map page used to obtain the list of names of the property owners being submitted.

- (c) Variances:
 - (1) Form completed by applicant which specifies the variance being requested, the specific section(s) on which the variance is being requested, the details of the variance and the grounds on which it is claimed that the variance should be granted.
 - (2) A plan, drawn to reasonable scale showing the entire property under consideration, the location and names of all abutting streets, the location and dimensions of all existing and proposed structures as well as the acreage and dimensions of the property under consideration.
 - (3) A list showing the names and addresses of property owners within 200 feet of the property lines of the property being considered. The names and addresses shall be those that appear on the County Auditor's current tax list or the County Treasurer's mailing list.
 - (4) A certified copy of each and every tax map page used to obtain the list of names of the property owners being submitted by the applicant.

1115.11. REVIEW BY BOARD OF ZONING APPEALS

The Board of Zoning Appeals shall review each application or request in accordance with the standards established in this Zoning Ordinance. Upon acceptance of each application, the Zoning Inspector shall establish the time and date of the public hearing to be held to consider the application or request by placing the application on the agenda of the next regularly scheduled Board meeting.

- (a) Notice: The date, time and place of the Board of Zoning Appeals' public hearing involving the review of the request for a variance and/or appeal shall be published in each of the following ways:
1. Once in a newspaper of general circulation in the City at least fifteen (15) days prior to the date of the hearing.
 2. Written notice of the hearing shall be mailed by the Zoning Inspector by certified mail at least fifteen (15) days before the date of the public hearing to the owners of property within and contiguous to and directly across the street from any part of the property or 200 feet, whichever is greater and the addresses of such owners shall be those as appear on the County Auditor's current tax list or the Treasurer's mailing list. The notice shall include an indication to such owners the nature of the variance and/or appeal being requested by the applicant.
 3. The applicant shall post a sign advertising the proposed project, the date and time of the initial Public Hearing. The sign will be provided to the applicant by the Community Development Department and shall be posted at the site not less than seven (7) days prior to the date of the initial Public Hearing. (Ord. 1999-24. Passed 2/3/99)

1115.12. DECISIONS

- (a) The Board of Zoning Appeals shall decide all appeals and rule on all requests for variances or interpretations within seventy-five (75) days after the date of the initial hearing, except that such time may be extended by mutual consent.
- (b) In the event that a meeting of the Board is commenced with only three (3) members of the Board present, an applicant shall have the right to have the hearing of his/her application postponed until the first subsequent hearing at which four (4) or more members are present.
- (c) Every decision of the Board of Zoning Appeals shall be by resolution or order, each which shall contain a record of the findings of the Board by case number, together with all documents pertaining thereto.
- (d) A copy of the Board's written resolution or order, signed by the Chairman of the Board or his/her designee, shall be sent to the applicant not more than fifteen (15) days after the decision was made. Copies shall also be sent to the Zoning Inspector, Council and the Planning Commission. Such decisions shall be binding upon all City employees, officers, boards and commissions and shall be incorporated in any permit or certificate, subsequently issued to the application pursuant to such decision.

1115.13. ISSUANCE OF A ZONING PERMIT

In the case where a variance has been approved, the applicant may obtain a zoning permit in accordance with Section 1111.05(b) of this Ordinance. The applicant shall comply with all the regular procedures and restrictions set forth in Chapter 1111 of this Ordinance. The applicant shall have one year from the date on which the variance was approved, in which to obtain the necessary zoning permit. In the case that a permit is not obtained within this time period, the approval shall lapse and become null and void. In order to have the variance re-approved, the applicant must comply with all application procedures and requirements set forth in this Section.

CHAPTER 1117
AMENDMENTS

1117.01	Council May Amend
1117.02	Initiation Of Amendments
1117.03	Contents Of Application For Amendment
1117.04	Action By Planning Commission
1117.05	Action By City Council

1117.01 COUNCIL MAY AMEND

Council may, from time to time, amend by ordinance the number, shape, area of districts on the Zoning Districts Map as well as any part of the written regulations set forth within the text of this Zoning Ordinance.

1117.02. INITIATION OF AMENDMENTS

Amendments to the Zoning Text and/or the Zoning Districts Map may be initiated by:

- (a) Motion of the Planning Commission, or
- (b) Adoption of a resolution by the Board of Zoning Appeals (with certification to the Planning Commission), or
- (c) Adoption of a resolution by City Council (with certification to the Planning Commission), or
- (d) Filing of an application to City Council by one or more property owners within the area proposed to be changed or affected by the proposed amendment to the Zoning Ordinance.

1117.03. CONTENTS OF APPLICATION FOR AMENDMENT

Applications for amendment to the Zoning Ordinance shall include the following, as applicable:

- (a) If application is initiated under Section 1117.02(d), application shall be submitted on forms made available by the Zoning Inspector.
- (b) If application is initiated under Section 1117.02(d), the fee as specified in Section 1111.14, which fee is not refundable.
- (c) If application is initiated under Section 1117.02(d), a list of current property owners within and contiguous to and directly across the street from any part of the defined area to be amended or 500 feet from such area, whichever is greater, as well as the addresses of such owners which shall be those that appear on the County Auditor's Tax List or the Treasurer's mailing list.
- (d) A certified copy of each and every tax map page used to obtain the list of names of the property owners being submitted.
- (e) Evidence that the proposed amendment would materialize in an equal or better Zoning Ordinance than that existing.
- (f) A statement of the proposed text change in the regulations set forth in this Zoning Ordinance.
- (g) A statement or legal description of the proposed change in the number, shape, area or regulations of the districts on the Zoning District Map.
- (h) Evidence that the existing Zoning Ordinance is unreasonable with respect to the particular property, and that it deprives the property owner of his/her lawful and reasonable use of the land. For the purposes of this Zoning Ordinance, a limitation upon the financial gain from the land in question shall not constitute unreasonable zoning.

1117.04. ACTION BY PLANNING COMMISSION

Upon its own initiative or upon certification from City Council or the Board of Zoning Appeals, the Planning Commission shall consider the text or copy of the text of any proposed amendment to the Zoning Ordinance, together with any supporting documentation forming a part of or referred to in such proposed amendments.

- (a) **Public Hearing** - The Planning Commission shall hold at least one public hearing to consider a proposed amendment to this Zoning Ordinance. Each public hearing shall be publicized in the following manner:
- (1) In all cases, by one publication of the time and place of such hearing in a newspaper of general circulation in the City at least fifteen (15) days prior to the hearing date. Such notice shall include a statement that opportunity will be afforded to any person interested to be heard.
 - (2) Written notice of hearings pertaining to the amendment of a zoning district(s) on the Zoning District Map shall be mailed by the Zoning Inspector by certified mail at least fifteen (15) days before the date of the public hearing to the owners of property within and contiguous to and directly across the street from any part of the defined area to be amended or 500 feet from such area, whichever is greater. The addresses of such owners shall be those that appear on the County Auditor's Tax List or the Treasurer's mailing list. The notice shall include an indication to such owners of the change in zoning to be considered by the Commission at the hearing on the proposed amendment.
 - (3) The applicant shall post a sign advertising the proposed project, the date and time of the initial Public Hearing. The sign will be provided to the applicant by the Community Development Department and shall be posted at the site not less than seven (7) days prior to the date of the initial Public Hearing. (Ord. 1999-24. Passed 2/3/99)
- (b) **Recommendation** - Within twenty (20) days of the public hearing, the Planning Commission shall make its recommendation on the proposed amendment. In no case shall the Commission be allowed more than sixty (60) days from the date of certification, or a time period acceptable to the parties involved, to render such a recommendation. All recommendations

shall be submitted to City Council in writing. No amendment shall be acted upon by City Council until the Commission has submitted its report and recommendation to City Council.

1117.05. ACTION BY CITY COUNCIL

Upon receipt of a recommendation from the Planning Commission, City Council shall consider the text or copy of the text of any proposed amendment to the Zoning Ordinance, together with any supporting documentation forming a part of or referred to in such proposed amendments.

- (a) Public Hearing - Council shall, upon receipt of such recommendation from the Planning Commission, set a time for a public hearing on such proposed amendment or supplement, which date shall not be more than sixty (60) days from the date of the receipt of such recommendation from the Planning Commission. Notice of such hearing shall be publicized in the following manner:
 - (1) In all cases, by one publication of the time and place of such hearing in a newspaper of general circulation in the City at least thirty (30) days prior to the hearing date. Such notice shall include a statement that opportunity will be afforded to any person interested to be heard.
 - (2) If the proposed amending ordinance intends to re-zone or re-district ten (10) or less parcels of land, as listed on the tax duplicate, written notice of the hearing shall be mailed by the Clerk of Council by first class mail, at least fifteen (15) days before the date of the public hearing to the owners of property within and contiguous to and directly across the street from such parcel or parcels, to the addresses of such owners appearing on the County Auditor's current tax list and to such other list or lists that may be specified by Council.
- (b) Access to Records - During the thirty (30) days subsequent to giving notice of the public hearing, the text of such proposed amendment, together with the maps, plans or copies thereof forming part of or referred to in such amendment and the recommendation, maps, plans, reports or copies, if any, or copies thereof, submitted by the Planning Commission shall be on file, for public examination, in the City offices.
- (c) Action by Council - Within twenty (20) days after the public hearing, City Council shall adopt the proposed amendment by a majority vote. Any vote that is less than a majority for approval shall be deemed as denial of the requested change. If the amendment adopted by City Council violates, differs from or departs from the recommendation submitted by the Planning Commission, it shall only take effect if it is approved by at least three-fourths (3/4) of the membership of Council. (Ord. 2000-53. Passed 7-5-00)

CHAPTER 1119
Site Plan Review and Conformance

1119.01	Purpose
1119.02	Site Plan Review Required
1119.03	Application For Site Plan Review
1119.04	Application Processing
1119.05	Site Plan Review
1119.06	Staged Development
1119.07	Technical Plan Review

1119.01 PURPOSE

The purpose of this Chapter is to identify a procedure for the review and approval of site plans for permitted uses within the applicable Sections of this Zoning Ordinance.

1119.02. SITE PLAN REVIEW REQUIRED

The Planning Commission shall conduct a Site Plan Review for all projects to come before it, within the guidelines set forth in both this Chapter and all other applicable Sections of this Zoning Ordinance. The following list identifies the types of projects which shall come before the Commission for Site Plan Review:

- (a) A project where new construction and site development involving a permitted multi-family, commercial or industrial use or groups of uses are concerned.
- (b) A project where the conversion of a structure(s) to a permitted use is being considered and where no new exterior construction or site development is planned. "Use conversion" status will have been achieved if a use will be moving from one of the following use categories to another:

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- (1) Residential to Commercial/Industrial
 - (2) Commercial to Industrial/Multifamily
 - (3) Industrial to Commercial/Multifamily
 - (4) Single or Two Family to Multifamily
- (c) A project where an existing multifamily, commercial or industrial use is contemplating an addition or expansion which would have at least one or more of the following effects:
- (1) Alteration of traffic flows by way of ingress, egress or within the site itself.
 - (2) Alteration or rearrangement of on-site parking which results in a reduction in the number of parking spaces or placement within a required front yard area.
 - (3) Addition to structure which increases the floor area by 50% or more of the existing building floor area.
- (d) The construction of public or private off-street parking areas in districts where they are permitted as set forth within this Ordinance.

1119.03. APPLICATION FOR SITE PLAN REVIEW

When the Zoning Inspector has determined that a proposed project is eligible for Site Plan Review in accordance with Section 1119.02 of this Chapter, he/she shall notify the developer or his/her agent of the need to apply for Site Plan Review. Applications for Site Plan Review may be obtained from the Zoning Inspector and should be returned to the same when completed. The application for a Site Plan Review shall include the following items:

- (a) Application Form - This application form, when completed, shall contain general information about the name and location of the proposed development, as well as the principals involved.
- (b) Architectural Plan - The applicant shall submit three (3) copies of an architectural plan of the proposed project showing exterior elevations and floor plans.

If exterior elevations are not available, reasonable graphic representations may be submitted.

- (c) Site Plan - The applicant shall submit (12) copies of a site plan of the proposed project showing the following items:
 - (1) General Vicinity Map
 - (2) Property Boundary Line
 - (3) Elevation Marks & Contours
 - (4) Traffic & Circulation Plan
 - (5) Adjacent Streets
 - (6) Parking & Loading Plan
 - (7) Landscaping Plan
 - (8) Grading & Surface Drainage Plan
 - (9) Utilities Plan
 - (10) Proposed Signage

All drawings prepared for submission under (b) and (c) above shall be prepared by a professional engineer, architect or surveyor and shall bear their professional seal, unless it is determined by the Zoning Inspector, that due to the simplicity of the project, a professional seal is not required at this stage of the project development.

- (d) Payment of Fee - The application shall be accompanied by the payment of fees as specified in Section 1111.14(b)(4). No application shall be considered complete unless accompanied by fee payment.
- (e) Property Owner List - The applicant shall addresses of property owners within 200 feet of the property lines of the property being considered. The names and addresses shall be those that appear on the County Auditor's current tax list or the County Treasurer's mailing list.
- (f) Tax Map Page - The applicant shall submit a copy of each and every tax map page used to obtain the list of names of the property owners being submitted by the applicant.

1119.04. APPLICATION PROCESSING

Once a completed Site Plan Review application has been received, the Zoning Inspector shall begin processing the application through the following procedures:

- (a) Notification - The date, time and place of the Planning Commission meeting at which the Site Plan Review will be conducted shall be published in each of the following ways:
 1. Once in a newspaper of general circulation in the City at least fifteen (15) days prior to the date of the meeting.
 2. Written notice of the meeting shall be sent by the Zoning Inspector in the regular mail at least fifteen (15) days before the date of the meeting to the owners of property within and contiguous to and directly across the street from any part of the property or 200 feet from the property, whichever is greater, and the addresses of such owners shall be those as appear on the County Auditor's current tax list or the Treasurer's mailing list. The notice shall include an indication to such owners the intent of the Site Plan Review request to be considered by the Commission.
 3. The applicant shall post a sign advertising the proposed project, the date and time of the initial Public Hearing. The sign will be provided to the applicant by the Community Development Department and shall be posted at the site not less than seven (7) days prior to the date of the initial Public Hearing. (Ord. 1999-24. Passed 2-3-99)
- (b) Administrative Review - The Zoning Inspector shall circulate copies of the submitted site plans to the following departments or committees: Engineering and Building, Police, Fire, Health, Community Development and the Architectural Advisory Board. Each reviewer shall submit their comments on the project on the form provided. In a situation where comment sheets are not returned by the deadline designated on the sheet, the reviewing department shall be deemed in violation of the requirements of this Ordinance. Every attempt will be made to allow for as much review time as possible.
- (c) Comment Review Conference - Once all department comments have been returned, the Zoning Inspector may arrange, if necessary, a meeting with the applicant or project representative to discuss any negative comments. Representatives of the reviewing departments may be required to attend this conference, if necessary. The purpose of this conference shall be to allow the applicant to discuss comments with the City

Administration so that any needed revisions may be made prior to the actual Planning Commission meeting.

1119.05. SITE PLAN REVIEW

The Planning Commission shall conduct a Site Plan Review so that it may determine that the specific requirements of this Ordinance are being satisfied in the planning of the proposed project. The Commission may also take into account comments from the Administration or the general public in its evaluation of the project. Whenever it feels necessary, the Commission may attach conditions to the approval of a site plan in order to insure the health, safety or welfare of the public as well as the integrity of an existing neighborhood in proximity to the development.

- (a) Special Studies Required - In the event that the Planning Commission feels that additional information is necessary in order to make its decision, it may instruct the applicant or the administration to conduct additional studies, or seek expert advice. The cost of such studies shall be borne by the applicant but in no event shall such cost exceed one thousand (\$1,000.00) dollars, which sum shall be on deposit with the City, upon request of the Commission.
- (b) Decision - The Planning Commission shall approve or disapprove all site plans to come before it within sixty (60) days of the initial Site Plan Review meeting. Such period may be extended by the Commission in the event that additional studies are required.
 - (1) Disapproval - In the event that the Commission does not approve a proposed site plan, the Commission shall notify the applicant in writing of its decision. When a site plan is not approved, it may not be re-submitted to the Commission for review in less than one (1) year from the date of the decision, unless correcting revisions have been made to the original plans. All re-submittal shall follow the application requirements set forth in this Chapter.
 - (2) Approval - In the event that the Commission approves a proposed site plan, the Commission shall notify the applicant in writing of its decision. The Chairman of the Commission, or his/her designee shall sign and date a copy of the approved plans and this copy shall become the officially approved site plan. Upon approval, the applicant shall have one (1) year from the date of approval to obtain a Zoning Permit. The Zoning Permit shall be obtained in accordance with Chapter 1111 of this Ordinance. Should this one year period elapse without the applicant having obtained the Zoning Permit, the Site Plan Approval shall become null and void. Should this become the case, the applicant may re-submit application in conformance with the requirements of this Chapter.
- (c) Conformance With Site Plan Approval - The Planning Commission may consider the revocation of a Site Plan Approval in the event that a proposed development whose occupancy permit has not yet been granted is found to be in violation of the requirements of this Ordinance and/or the conditions attached to the approval by the Commission. Should revocation be considered, the Commission shall schedule a hearing in which to consider the revocation and shall notify the original applicant and/or project representative of the date, time and place of hearing at least twenty (20) days in advance of the meeting by certified mail.

In the event that the Commission decides to revoke approval, the occupancy permit shall not be issued until the Commission certifies that the violation(s) has been corrected.

Where such a violation involves a project where an occupancy permit has been issued, the violation shall be treated as a violation to this Ordinance and be subject to penalty as specified in Section 1111.12 of this Ordinance.

1119.06. STAGED DEVELOPMENT

Where a proposed site plan indicates a staged site development approach, the later stages of the proposed development may be constructed within ten (10) years of the initial approval providing that the initial stage is completed in conformance with Section 1119.05(b)(2) and that the latter stages are constructed in conformance with all applicable local, state and federal regulations. Upon the expiration of this ten (10) year period any and all development which has not commenced shall be subject to the application and review requirements stated within this Chapter and amendments thereto.

1119.07. TECHNICAL PLAN REVIEW.

In addition to the Site Plan Review process set forth within this chapter, proposed project plans shall also undergo a Technical Plan Review coordinated by the Department of Community Development. In no way shall a Site Plan Review be construed as a substitute or a waiver for the Technical Plan Review. (Ord. 1991-53. Passed 8-7-91.)