

Article 19

SPECIAL USE PERMITS

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Section 19-1. Purpose

- 19-1.01** Franklin County recognizes that certain uses or activities may be desirable or necessary to be located within the community, but that these uses or activities may not be totally compatible with other uses and activities permitted within that zoning district unless limited or specifically restricted in their use or activity. Whenever a zoning district has identified such uses or activities, a Special Use Permit shall be required.

Section 19-2. Application for Special Use Permit

- 19-2.01** An application for a Special Use Permit may be initiated by a property owner or agent representing a property owner to the County Planning and Building Office on forms available from the Planning Director.

- 19-2.02** The application shall include the following:
- a. Filing fee as established by the County Commissioners.
 - b. Legal description of the property.
 - c. Names of all property owners having a legal interest in the property.
 - d. Description of the proposed activity.
 - e. Composite site plan showing the major details of the proposed development, including the location of all structures, fences, driveways, utilities, drainages, slopes, parking, landscaping and other physical features.
 - f. A statement from the utility services regarding their capabilities to serve the development.
 - g. If private on-site sanitation is proposed, a description of the sanitation system, including size and location of the proposed facility.

Section 19-3. Approval Procedures

- 19-3.01** All applications for a Special Use Permit shall be submitted to the Planning Commission for recommendation and report, and no Special Use Permit shall be approved without a hearing before the Planning Commission. If an application for a Special Use Permit for lands within the Highway Corridor Overlay District has been filed, notice of that application shall be submitted to KDOT at least twenty (20) days prior to the Planning Commission meeting. The Planning Commission shall cause an accurate written summary to be made of the proceedings. Public Notice of such hearing shall be published by the Planning Director not less than twenty (20) days prior to the date of said hearing in the official County Newspaper. Said notice shall notify the public that such a hearing will take place; fix the time and place of the

hearing; describe the nature of the application which will be presented; and state that the public may attend and be heard. Proof of publication of such notice shall be filed with the Planning Commission in advance of said hearing.

- 19-3.02** Notice shall be sent by mail, at least twenty (20) days prior to the scheduled Planning Commission meeting, to all property owners within one thousand (1,000) feet of the boundaries of the land being considered for the rezoning where the surrounding properties are unincorporated or two hundred (200) feet where the surrounding properties are within the corporate limits of a city. Said written notice shall include the requirements as set forth in Section 22-5.02. Property owners notified of the public hearing shall have the opportunity to be heard or to submit a protest petition as provided in K.S.A. 12-757 (e) to be filed in the office of the County Clerk and to be considered by the Board of County Commissioners in considering the proposed rezoning.
- 19-3.03** All such special use permit applications shall be set for hearing no later than sixty (60) days from the date of filing the same. Any such hearing may, for good cause, with the consent of the applicant, be continued.
- 19-3.04** In considering any application for a Special Use Permit, the Planning Commission shall give consideration that the proposed use is in conformance with the Comprehensive Plan, complies with other adopted standards, is in the interest of the public health, safety and general welfare and the following additional factors:
- a. The character of the neighborhood.
 - b. The zoning and uses of nearby properties.
 - c. The suitability of the subject property to the proposed use.
 - d. Mitigation measures to minimize impacts to surrounding properties or services.
- 19-3.05** After conclusion of the public hearing, the Planning Commission shall recommend approval, conditional approval or denial of the Special Use Permit. The recommendation of the Planning Commission shall be considered by the Board of County Commissioner's at the Board's next regular meeting after receiving the recommendation of the Planning Commission.
- 19-3.06** After receiving the recommendation of the Planning Commission, such amendment, together with the reasons therefore, the Board of County Commissioners may adopt such recommendation by resolution, override the Planning Commission's recommendation by a $\frac{3}{4}$ majority vote of the membership of the Board of County Commissioners, or return such recommendation to the Planning Commission with a statement specifying the basis for the Board of County Commissioners' failure to approve or disapprove.
- 19-3.07** If the Board of County Commissioners returns the Planning Commission's recommendation, the Planning Commission, after considering the same, may resubmit its original recommendation giving the reasons therefore or submit a new or amended recommendation. Upon receipt of such recommendation, the Board of County Commissioners, by a simple majority, may adopt, may revise or amend and adopt such recommendation by resolution, or it may deny the zoning amendment.

- 19-3.08** If the Planning Commission fails to deliver a recommendation to the Board of County Commissioners following the Planning Commission's next regular meeting after receipt of the Board of County Commissioner's report, the Board of County Commissioners shall consider such course of inaction on the part of the Planning Commission as a resubmission of the original recommendation and proceed accordingly.
- 19-3.09** In approving a Special Use Permit, the Board of County Commissioners may require such reasonable conditions as deemed necessary to mitigate impacts to the community, maintain the character of the neighborhood and to protect the public health, safety and general welfare.
- 19-3.10** Regardless of whether or not the Planning Commission recommends approval, conditional approval or denial of a Special Use Permit, if a protest petition signed by the owners of at least twenty percent (20%) of the total area (less public streets and ways) located within one thousand (1,000) feet of the boundaries of the proposed Special Use Permit or two hundred (200) feet when the surrounding properties are within the corporate limits of a city, is filed with the County Clerk within fourteen (14) days after the date of the conclusion of the Planning Commission hearing, the resolution approving the Special Use Permit shall not be passed and adopted except by a 4/5 vote of all of the members of the Board of County Commissioners.

Section 19-4. Denial of an Application

- 19-4.01** Whenever the application for a Special Use Permit has been denied by the Board of County Commissioners, the same application or one substantially similar, shall not be reconsidered for the property within a period of one (1) year from the date of denial unless the Planning Director finds that there has been a substantial change of circumstances from those existing when the previous application was considered.

Section 19-5. Continuance, Expiration, Revocation or Modification of Special Use Permit

- 19-5.01** Any approved Special Use Permit shall be allowed to continue, unless specifically limited in time as a condition of its approval, and, provided that **all** conditions attached to the permit by the Board of County Commissioners are complied with.
- 19-5.02** All Special Use Permits shall automatically expire, be considered abandoned and become invalid by operation of law when:
- a. A definite time frame has been established as a condition by the County Commissioners and that time frame has elapsed.
 - b. An approved Special Use Permit has not been initiated or utilized by commencing the activity or use at the site specified in said Permit within one (1) year of the date of authorization. The authorization date shall be the date that the Permit is approved by resolution of the County Commissioners.
 - c. An approved special use permit wherein the authorized activity, service or use has ceased, except for rock quarries, for three hundred and sixty-five (365) continuous days, for any reason.
 - d. Special Use Permits subject to termination due to the provision of paragraphs b. and c. above, may file a written petition with the Planning Director at least thirty

(30) days prior to the expiration date requesting an extension of time to begin to reinstitute activity, service or use. The application shall state specific reason for such an extension and shall include all reports from appropriate County agencies. The County Commissioners may grant an extension if it is found that circumstances beyond the normal control of the holder of the permit resulted in a cessation of the activity, service or use for three hundred sixty-five (365) consecutive days or the holder(s) were unable to initiate the Special Use Permit.

19-5.03 Any Special Use Permit authorized in accordance with these provisions may be revoked or modified when the Planning Commission finds, after a public hearing, that the following exist:

- a. There has been a failure to comply with the conditions established for that Special Use Permit.
- b. That the Special Use Permit has substantially expanded or deviated from its original use and intent. Original use and intent shall be interpreted as being the actual use(s) specifically authorized in the Special Use Permit application. If the Planning Commission finds that there has been no change or that the change is minimal, the original Special Use Permit will remain in effect.
- c. That the Special Use Permit has been found by a court of law and/or federal or state administrative agency to be an illegal activity or to be a nuisance as defined by Kansas statutes.

19-5.04 Action to modify or revoke a Special Use Permit may be initiated by the County department responsible for enforcing these regulations, or any condition(s) established for that Special Use Permit or upon a valid complaint filed with the Planning Department and/or other affected County Department. Upon receipt of a complaint, the Planning Director shall investigate the complaint. If the investigation finds that the complaint is valid and that sufficient grounds exist for modification or revocation of a Special Use Permit, the matter shall be referred to the Planning Commission for a hearing.

19-5.05 The decision of the Planning Commission to modify or revoke shall be submitted to the Board of County Commissioners for final consideration.