

**DEVELOPMENT CODE OF THE CITY OF LAWRENCE, KANSAS, TEXT
AMENDMENTS TA-1-2-09, MARCH 24, 2009 EDITION**

**Amending Section
20-1301**

OF THE CODE OF THE CITY OF LAWRENCE, KANSAS



Incorporated By Reference Pursuant to K.S.A. 12-3009, *et seq.* K.S.A. 12-3301 *et seq.* and the
Home Rule Authority of the City

Approved by the Governing Body of the City of Lawrence, Kansas on _____, 2008

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ARTICLE 13 DEVELOPMENT REVIEW PROCEDURES

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20-1301 GENERAL

(a) Summary of Procedures

The following table provides a summary of the procedures in this Article. In the event of conflict between this summary table and the detailed procedures in this Development Code, the detailed procedures govern.

Procedure	Review and Decision-Making Bodies				Notice
	Staff	PC	BZA	CC	[2]
Text Amendments (§0)	R	<R>		DM	N
Zoning Map Amendments (§0) [3]	R	<R>		DM	N/P/M
Planned Developments (§ 20-1303(l)(2)(v))					
Preliminary Development Plan	R	<R>		DM	N/P/M
Final Development Plan	DM			<A>	M
Site Plan Review (§0)	DM			<A> [4]	P/M
Special Uses (§Article 12. 20-1305(o)(3))	R	<R>		DM	N/P/M
Zoning Variances (§0)	R		<DM>		N/M
Written Interpretations (§0)	DM		<A> [5]		
Appeals of Administrative Decisions (§0)			<DM>		N/M
PC = Planning Commission BZA = Board of Zoning Appeals CC = City Commission <=> Public Hearing Required [1] R = Review Body (Responsible for Review and Recommendation); DM = Decision-Making Body (Responsible for Final Decision to Approve or Deny); A = Authority to hear and decide appeals of Decision-Making Body's action. [2] Notices: N = Newspaper (published); P = Posted (signs); M = Mailed (See sub-section (p)(3) of this section) [3] See Section 20-308(d) for special procedures applicable to UC, Urban Conservation District zoning map amendments. [4] City Commission is authorized to hear and decide appeals of Planning Director's decision on Site Plans. [5] Appeals processed as "Appeals of Administrative Decisions."					

(b) Authority to File Applications

Unless otherwise expressly stated, applications for review and approval under this article may be initiated by (1) all the Owner of the property that is the subject of the application; (2) the Landowners' authorized Agent; or (3) any review or decision-making body.

(c) Form of Application

Applications required under this Development Code shall be submitted in a form and in such numbers as required by the official responsible for accepting the application. Officials responsible for accepting applications shall develop checklists of submittal requirements and make those checklists available to the public. Application forms

and checklists of required submittal information are available in the office of the [Planning Director](#).

(d) Pre-application Meetings

- (1) All applicants for matters that require a public hearing are required to attend a pre-application meeting with staff. Pre-application meetings are also required whenever the provisions of this Article expressly state that they are required. Pre-application meetings shall be scheduled by the applicant to allow adequate time to review and respond to issues raised at the pre-application meeting. The meeting shall occur at least 7 [Working Days](#) before submitting an application.
- (2) All other applicants are encouraged to arrange a pre-application meeting with City staff. The [Planning Director](#) will provide assistance to applicants and ensure that appropriate City staff members are involved in pre-application meetings.

(e) Application Processing Cycles

The [Planning Director](#) may, after consulting with review and decision-making bodies, promulgate processing cycles for applications. Processing cycles may establish:

- (1) deadlines for receipt of complete applications;
- (2) dates of regular meetings;
- (3) the scheduling of staff reviews and staff reports on complete applications; and
- (4) any required time-frames for action by review and decision-making bodies.

(f) Application Filing Fees

Applications shall be accompanied by the fee amount that has been established by the City Commission. Fees are not required with applications initiated by review or decision-making bodies. Application fees are nonrefundable.

(g) Application Completeness, Accuracy and Sufficiency

- (1) An application will be considered complete and ready for processing only if it is submitted in the required number and form, includes all required information and is accompanied by the required filing fee.
- (2) Within 5 [Working Days](#) of application filing, the [Planning Director](#) shall determine whether the application includes all information required for processing (See Section 20-1301(c)). If an application does not include all of the required information it will be deemed incomplete. If an application includes all of the required information it will be deemed complete. If the application is deemed incomplete, written notice shall be provided to the applicant and the applicant's [Agent](#). The notice shall include an explanation of the application's deficiencies.
- (3) No further processing of incomplete applications will occur and incomplete applications will be pulled from the processing cycle. When the deficiencies are corrected, the application will be placed in the next processing cycle. If the deficiencies are not corrected by the applicant

within 60 days, the application will be considered withdrawn. If an application is deemed withdrawn because of failure to correct application deficiencies, notice shall be sent to the applicant and the applicant's [Agent](#).

- (4) Applications deemed complete will be considered to be in the processing cycle and will be reviewed by staff and other review and decision-making bodies in accordance with the procedures of this Article and the processing cycles established under Section 20-1301(d)(2).
- (5) The [Planning Director](#) may require that applications or plans be revised before being placed on the agenda of the [Planning Commission](#) or City Commission if the [Planning Director](#) determines that:
 - (i) the application or plan contains one or more significant inaccuracies or omissions that hinder timely or competent evaluation of the plan's/application's compliance with Development Code standards;
 - (ii) the application contains multiple minor inaccuracies or omissions that hinder timely or competent evaluation of the plan's/application's compliance with Development Code standards;
 - (iii) the application or plan cannot be approved without a variance or some other change or modification that the decision-making body for that application or plan does not have the authority to make.
- (6) Applications that contain the aforementioned types of inaccuracies or that substantially fail to comply with Development Code standards shall be revised before they will be placed on agenda of the [Planning Commission](#) or City Commission.
- (7) Action or inaction by the [Planning Director](#) under this section may be appealed to the Board of Zoning Appeals.

(h) Continuation of Public Hearings

- (1) A public hearing for which proper notice was given may be continued by the Board of Zoning Appeals or [Planning Commission](#) to a later date without providing additional notice as long as the continuance is set for specified date and time and that date and time is announced at the time of the continuance.
- (2) If a public hearing is tabled or deferred by the Board of Zoning Appeals or [Planning Commission](#) for an indefinite period of time or postponed more than three (3) months from the date of the originally scheduled public hearing, new public notice shall be given, in accordance with the notice requirements of the respective procedure, before the rescheduled public hearing.
- (3) The applicant or [Landowner](#) who requests the postponement is responsible for paying the cost of re-notification per the adopted schedule of fees for publication, and payment of re-notification costs shall be made before the item is placed on the agenda.

(i) Action by Review Bodies

- (1) Review bodies may take any action that is consistent with:
 - (i) the regulations of this Article;
 - (ii) the City's adopted Development Policy;
 - (iii) any by-laws that may apply to the review body; and
 - (iv) the notice that was given.
- (2) The review body's action may include recommending approval of the application, recommending approval with modifications or conditions, or recommending disapproval of the application.
- (3) The review body may recommend conditions, modifications or amendments if the effect of the condition, modification or amendment is to allow a less intensive use or [Zoning District](#) than indicated in the application, reduce the impact of the development, or reduce the amount of land area included in the application.
- (4) The review body may recommend that the application be approved conditionally upon the execution of a development agreement acceptable to the Director of Legal Services and/or compliance with the [Access Management](#) Standards and Commercial Design Policies and Standards adopted by the City Commission from time to time.
- (5) Review bodies may not recommend a greater [Density](#) of development; a more intensive use or a more intensive [Zoning District](#) than was indicated in the public notice.
- (6) Review bodies are not required to recommend approval of the maximum [Density](#) or intensity of use allowed.

(j) Action by Decision-Making Bodies

- (1) Decision-making bodies may take any action that is consistent with:
 - (i) the regulations of this Article;
 - (ii) the City's adopted development policy;
 - (iii) any by-laws that may apply to the decision-making body; and
 - (iv) the notice that was given.
- (2) The decision-making body's action may include approving the application, approving the application with modifications or conditions, or denying the application. A denial of application may be accompanied with a remand to the review body, if any, for further consideration.
- (3) The decision-making body may impose conditions on the application or allow modifications or amendments if the effect of the condition, modification or amendment is to allow a less intensive use or [Zoning District](#) than indicated in the application or to reduce the impact of the

development or to reduce the amount of land area included in the application.

- (4) The decision-making body may approve the application upon the condition that the applicant executes a development agreement acceptable to the Director of Legal Services and/or compliance with the [Access Management](#) Standards and Commercial Design Policies and Standards adopted by the City Commission from time to time.
- (5) Decision-making bodies may not approve a greater [Density](#) of development; a more intensive use or a more intensive [Zoning District](#) than was specified in the public notice.
- (6) Decision-making bodies are not required to approve the maximum [Density](#) or intensity of use allowed.

(k) Lesser Change Table

Pursuant to K.S.A. 12-757, the [Planning Commission](#) may adopt a “Lesser Change Table.” The Lesser Change Table is for the use of the [Planning Commission](#) in determining the hierarchy of [Zoning Districts](#) and for determining when public notification or re-notification is required. Such a table lists zoning classifications, by category, in ascending order from the least intense to the most intense. The [Planning Commission](#)’s Lesser Change Table shall identify only the hierarchy of [Zoning Districts](#) within each of the three categories of [Base Districts](#)—Residential, Commercial and Industrial. It is not intended to identify hierarchical arrangements among Districts in different categories. For example, the Lesser Change Table may classify the RS40 District as less intense than the RS20 District, but it may not classify (R) Residential Districts as less intense than (C) Commercial Districts, or vice-versa. The Lesser Change Table shall be filed with the [Planning Director](#).

(l) Burden of Proof or Persuasion

In all cases, the burden is on the applicant to show that an application complies with applicable review or approval criteria.

(m) Conditions of Approval

When the procedures of this Article allow review bodies to recommend or decision-making bodies to approve applications with conditions, the conditions shall relate to a situation created or aggravated by the proposed use or development. When conditions are imposed, an application will not be deemed approved until the applicant has complied with all of the conditions.

(n) Deferred Items

Once on a published and distributed agenda, [Planning Commission](#) action is required to defer an item. If an application is requested for deferral from the next [Planning Commission](#) agenda prior to publication of the agenda, the applicant may defer an item by submitting a written request to the [Planning Director](#). For [Deferred Items](#), the [Landowner](#) or applicant shall provide an updated property Ownership list from the County Clerk’s office for items that have been deferred from an agenda for 3 or more months. If deferred at the applicant or [Landowner](#)’s request, the cost of republication of legal notice in the newspaper shall be paid by the applicant or [Landowner](#). If an item is deferred by the [Planning Commission](#), no republication fee will be charged.

(o) Inactive Files

For [Inactive Files](#), the [Planning Director](#) may notify the applicant and applicant’s [Agent](#) in writing that a file has been closed when the file has been inactive for a period of time equal to or exceeding 12 months. Requests for action after a file has

been declared inactive and the applicant has been notified require resubmittal as a new application. Review fees and cost of publication are required to be paid as part of the resubmittal.

(p) Inaction by Review/Decision-Making Bodies

- (1) When a review or decision-making body fails to take action on an application within any time limit that is specified in or under this Article (as with an application processing cycle), that inaction will be interpreted as a recommendation of approval or a decision to approve, respectively. The [Effective Date](#) of such a “non-action” approval or recommendation of approval will be the date that action was required to have occurred under the required time limit.
- (2) Time limits for action may be extended if the applicant gives written consent to the extension or the applicant submits a written request for a deferral and agrees in writing to an extension of the time for action.
- (3) When a review body fails to take action on an application within any time limit that is specified in this Article, the decision-making body is free to proceed with its own action on the matter without awaiting a recommendation.

(q) Notices

The notice provisions of this section apply except as otherwise expressly stated.

(1) Content

(i) Newspaper and Mailed Notice

All Newspaper and Mailed Notices shall:

- a. indicate the date, time and place of the public hearing or date of action that is the subject of the notice;
- b. describe the property involved in the application by Street address or by general description;
- c. describe the nature, scope and purpose of the application or proposal; and
- d. indicate where additional information on the matter can be obtained.

(ii) Posted Notice

All Posted Notices shall:

- a. indicate the date, time and place of the public hearing or date of action that is the subject of the notice;
- b. state the language “[Development Activity](#) Proposed”, and
- c. indicate where additional information on the matter can be obtained.

(2) Newspaper Notice

When the provisions of this Development Code require that “Newspaper Notice” be provided, the City is responsible for ensuring that notice is published in the official newspaper of the City of Lawrence. The notice shall appear in the newspaper at least 20 days before the date of the public hearing.

(3) Mailed Notice

When the provisions of this Development Code require that “Mailed Notice” be provided:

(i) Owner Notice; Radius

The official responsible for accepting the application shall mail notice to the record **Owner** of the subject property and all Owners of property located within 200 feet of the subject property. If the subject property abuts the City limits, the area of notification shall be extended to at least 1,000 feet into the unincorporated area.

(ii) Notice to Registered Neighborhood Associations

The official responsible for accepting the application shall mail notice to any **Registered Neighborhood Associations** whose boundaries include or are contiguous to the subject property.

(iii) Ownership Information

The applicant is responsible for providing certified ownership information. Current ownership information shall be obtained from the Douglas County Clerk. Ownership information will be considered current if, at the time of submission, it is no more than 30 days old.

(iv) Timing of Notice

Required notices shall be deposited in the U.S. mail at least 20 days before the public hearing, meeting, or date of action that is the subject of the notice. When required notices have been properly addressed and deposited in the mail, failure of a party to receive such notice will not be grounds to invalidate any action taken.

(4) Posted Notice

(i) When the provisions of this Development Code require that “Posted Notice” be provided, the applicant shall ensure that notice is posted on the subject property.

(ii) Posted notice shall be in the form of official signs provided by the City.

(iii) Posted notice shall be clearly visible to neighboring residents and passers-by from each **Public Street** bordering the subject property. At least one sign shall be posted on each Street **Frontage**. The **Planning Director** is authorized to require the posting of additional signs when deemed necessary for effective public notice, but not more than one sign per 300 feet of Street **Frontage** may be required.

(iv) Posted notice shall remain in place for at least 20 days before the public hearing, meeting, or date of action that is the subject of the notice.

- (v) During the required notice period, the applicant shall periodically check the condition of the sign and shall replace it if it is no longer legible for any reason, whether through Act of God, vandalism, defect in installation or vegetative growth.
- (vi) For any application requiring posted notice, the applicant shall supplement the application with an affidavit of posting and notice no sooner than the date the sign is posted but no later than seven (7) days prior to the scheduled public hearing, meeting, or date of action that is the subject of the notice. Failure to make timely delivery of such affidavit to the [Planning Director](#) shall render the application incomplete and subject it to removal from the agenda on the hearing date, at the discretion of the [Planning Commission](#).
- (vii) The applicant shall remove notice signs required by this section within 10 days of the date that the decision-making body takes action or the date that the application is withdrawn. Failure to properly post or maintain such signs is grounds for deferral or denial of the application.
- (viii) For applications that do not abut [Public Streets](#), the [Planning Director](#) is authorized to approve an alternative form of posted notice that will be visible to passers-by.
- (ix) The public may submit written statements regarding a specific development proposal that, when the written statement is submitted by the published deadline for receiving public comment, will become a part of the official record in the planning department.
- (x) Parties affected by the actions of a decision making body have the right to appeal the action taken in accordance with the procedures set out in Article 13 of this Chapter.

(r) Written Findings

Unless otherwise specifically provided in this ordinance, written findings are not required for a final decision on any application. Provided, however, that any decision may be expressly made subject to the subsequent adoption of written findings and, in such cases, the decision shall not be considered final until such findings are adopted. Provided further, that where an appeal of any quasi-judicial decision has been filed in the District Court of Douglas County pursuant to K.S.A. 12-760 or K.S.A. 60-2101(d) in cases where written findings have not been adopted, written findings shall be adopted by the approving authority within 45 days of service of the appeal on the City and thereafter shall be certified to the District Court as part of the administrative record. The 45-day time period for adoption and certification of findings may be extended with the permission of the District Court.

(s) Where Ordinance Required

Adoption of an ordinance is required in the case of a zoning text amendment, rezoning and special use permit. In such instances, the decision approving the application shall not be deemed to be final until the ordinance has been published in an official City newspaper.

(t) **Planning Director as Administrative Official**

Except where otherwise specifically provided in the Development Code, the Planning Director shall be the administrative official charged with interpreting and enforcing the provisions of the Development Code.