



CITY OF
TOPEKA

Conditional Use Permit Procedures & Instructions

PLANNING & DEVELOPMENT DEPARTMENT

STEP 1: PRE-APPLICATION MEETING

Prior to filing an application, the applicant is requested to schedule a pre-application meeting with Planning staff. The meeting is intended for the exchange of information by which the owner can explain the general development concept and site conditions, and Planning staff can explain the requirements of the zoning regulations, constraints applicable to the proposal, and Comprehensive Plan policies.

A pre-application meeting should be held no later than one (1) week prior to the application deadline. Applications without a qualified pre-application meeting will be processed as staff resources allow and cannot be guaranteed for the next scheduled agenda of the Planning Commission.

At the time of the pre-application meeting, staff will fill out and sign the Rezoning & CUP Application Checklist which should be turned in with the application. At the pre-application meeting, staff will review the citizen participation process requirements with the applicant, including sending notices to affected property owners and holding a neighborhood information meeting. Staff will hand out specific guidelines for this procedure at this meeting. The applicant should submit the date, time, and place of the meeting at the same time as the application.

STEP 2: FILING AN APPLICATION

All elements of the application questionnaire and required documents shall be filed through the online application portal prior to 12:00 noon on the filing deadline. Schedules of Processing are available online and via a link on the application portal. Upon a finding that an application is incomplete or otherwise not in compliance with code requirements, further processing shall be at the discretion of the Planning Director. Elements of this application packet are more fully described as follows:

Documents Required When Applying

Portal Application Questionnaire (serves as Application Form): All required questions must be completed with adequate information to allow staff to process. The authority to determine the completeness of an application rests with the Planning Director.

Property Owner Authorization Form: This document is available for download from our website and from a link on the application portal. It shall be completed and signed by property owner(s) and uploaded through the on-line application portal. Owner(s) of record shall mean the owner(s) as contained on the last deed of record filed with the Shawnee County Register of Deeds or, submission of a recorded Certificate of Power of Attorney, duly notarized, and containing the legal description of the subject property.

Legal Description: Staff relies on this legal description to prepare property owner notices, legal notices, advertisements, and ordinances. If an error is found in the submitted legal description after application, it may invalidate the process and cause substantial delay.

Aerial Location Map – An aerial shot depicting the land included in the plat.

Statement of Operations: A written description of the proposed use, its size, and its operating characteristics shall be provided at the time of application. Essentially, it should provide the information described on the **Guidelines for Evaluation of CUP Applications document**.

Property Owner Notification

Kansas State Law requires a published notice of the application in the official city newspaper as well as mailed notices to surrounding property owners at least 20 days prior to the Planning Commission public hearing. The Planning Division is responsible for all publishing and mailing of notices. A portion of the filing fee covers this cost. The applicant is responsible for presenting the correct legal description of the subject property to the Planning Division at time of application, so that Staff can prepare a vicinity map of the official notification area. The notification area of adjacent property owners is as follows:

- When in the City of Topeka: 200 foot radius around subject property
- When in unincorporated Shawnee County: 1,000 foot radius around subject property

The above dimensional distances also represent the limits of the legal protest area as set forth by Kansas Statutes.

Filing fee

Applications for proposals must be accompanied by the appropriate filing fee (see Application Fee List).

Real Property Tax Status

All real property taxes including special assessments due are to be paid to date and current for the subject property or it will not be scheduled for public hearing until they are current.

Citizen Participation Review

This process is in addition to any state-mandated public notification requirements and is required for Re-zonings (including re-zoning to PUD) and PUD Major Amendments.

A Neighborhood Information Meeting (NIM) shall be held at least 20 days prior to the Planning Commission meeting. City staff will create and provide mailing labels and inserts to the applicant, who is responsible for mailing the notification at least 15 days prior to the scheduled NIM meeting.

Minimum Notification Areas:

- Properties less than 3 acres require notification of landowners within 300 feet.
- Properties 3 acres or greater require notification of landowners within 500 feet.
- Neighborhood organizations with ½ mile

NIM meetings are set up and facilitated by the developer. City staff attend to initially describe the development and answer any city code related questions. The applicant answers questions, keeps attendance and is the primary record taker at the meeting. A report of the meeting, including meeting notes / summary and letters or petitions received from residents, is to be provided to City staff for inclusion in Planning Commission agenda packet. For additional information, see our Citizen Participation Guidelines and brochure on our website at www.topeka.org/planning/neighborhood-information-meetings/.

Signage

Public notification signs should be posted on the property within 48 hours after the Neighborhood Information Meeting (NIM).

Signs will be provided by the Planning office and available for pick-up with NIM materials. If no NIM is held, the applicant shall arrange to pick up and install the sign(s) 18-25 days prior to the Planning Commission meeting.

Instructions for location and quantity of signs on property:

- One sign shall be posted along each street frontage. For any street frontage of 600 feet or more, one sign shall be posted for each 300 linear feet of street frontage, but in no case shall more than three signs be required.
- Each sign shall be inserted in the ground on the property (not in the street right-of-way), in a visible location, and within 5 feet of the property line if possible. Any weeds or grasses around the sign shall be trimmed to allow sign(s) to be easily seen from the street.
- Under most conditions the sign(s) is/are most visible if posted in a way that the face of the sign(s) is parallel with the street. Signs located close to the roadway may be most visible if installed so that the face of the sign is at a right angle to the street.
- The applicant is responsible for removing and disposing of the sign(s) no later than 48 hours after the day of the Planning Commission meeting.

STEP 3: STAFF REVIEW & COURTESY COMMENTS

Once a complete application has been submitted, Planning staff will distribute it to other reviewing agencies for comments. If an application is deemed to be incomplete because of missing information, the case will likely be continued to the following month. The applicant will be notified within two weeks if there are any incomplete items to be addressed. Conditional Use Permit (CUP) applicants will be afforded the opportunity to respond to courtesy comments midway through the staff review process. A typical review schedule looks like this:

Week 1 – Application is assigned to a case planner, distributed to review agencies for comment, and reviewed by staff.

Week 2 – Case planner completes research and sends courtesy comments back to the applicant by the end of Week 2 or at the beginning of Week 3.

Week 3 – Notices to surrounding property owners are mailed from Planning Department, no later than 20 days before public hearing.

Week 4 – Applicant submits revised CUP site plan typically by Monday of Week 4, to ensure those revisions will be included in the staff report and packet to the Planning Commission. Applicant submits Citizen Participation Report to Planning Department documenting results of neighborhood information meeting and citizen notices. Planning staff prepares recommendation on proposal.

Week 5 – Staff report recommendations are finalized and available on TopekaSpeaks.org by 2PM Friday of this week or 10 days prior to the public hearing. Applicants can view a copy of the staff report from TopekaSpeaks.

Failure to adequately address a comment may result in a recommendation of disapproval, conditional approval, or continuance. Planning staff will formulate a recommendation based upon planning principles, adopted policies of the Comprehensive Plan, and CUP review guidelines as described in Section 18.215.030 of the Topeka Municipal Code, which can be reviewed on the City’s website at www.topeka.org

STEP 4: PLANNING COMMISSION PUBLIC HEARING

Unless otherwise published, the Topeka Planning Commission meets on the third Monday of each month either via video-conference or in the City Council Chambers at 6:00 p.m. to consider public hearing applications. Notice of date, time and location or mode of meeting will be available at www.topeka.org/planning. The Planning Commission holds the official public hearing at which time the public is able to offer testimony for or against the re-zoning. After hearing from the public, the Planning Commission will then make a recommendation on the proposal, often including conditions of approval. The recommendation is forwarded to the Governing Body (City Council/Mayor).

A \$50.00 re-notification fee will be assessed to the applicant if an application scheduled for public hearing is requested for a continuance. This fee is waived if the request is received by the Planning Department prior to publication of the legal notification and mailing of notices to property owners.

The Kansas Supreme Court has held that CUP applications are quasi-judicial proceedings subject to due process and fairness standards. Applicants are cautioned that personal contacts with members of Topeka Planning Commission with respect to your application could complicate the proceedings and result in delays. Planning Commissioners must declare their “ex-parte” contacts at the public hearing.

STEP 5: GOVERNING BODY DETERMINATION

Final determination of the application rests with the Governing Body, which is comprised of the Mayor and City Council. The Governing Body may approve the Planning Commission’s recommendation with a simple majority vote (minimum of 6 votes), overturn or amend it with a super-majority vote (minimum of 7 votes), or return the item to the Planning Commission for further consideration (minimum of 6 votes). If a valid legal protest is filed within 14 days after the Planning Commission’s public hearing by property owners making up 20% of the land area within the notification area, the rezoning application must be approved by a minimum of 8 votes.

City Council rules state that public hearings for planning items shall be conducted by the Planning Commission. An additional hearing will normally not be conducted by the Governing Body. Governing Body consideration usually can take place approximately 4 weeks after the Planning Commission’s public hearing. Please refer to the City’s website (topeka.org) for upcoming City Council agendas.

An item may be referred back to the Planning Commission by majority vote of the Governing Body with a written statement specifying the basis for its return, if: 1) a person alleges there was an unfair hearing by the Planning Commission, 2) new facts or evidence has been filed with the City Clerk by 5:00 p.m. on

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the Wednesday preceding the Governing Body meeting, or 3) the Governing Body determines that further deliberation is needed by the Planning Commission. Once the case is reviewed and recommended back by the Planning Commission to the Governing Body, the Governing Body may approve or disapprove with a simple majority vote (minimum of 6 votes). Those cases involving a legal protest by surrounding property owners must still be approved by a minimum of 8 votes.

Whenever the Governing Body has denied a CUP, or whenever the Planning Commission has conducted a public hearing and made a recommendation on a requested CUP and the request is subsequently withdrawn by the applicant prior to Governing Body consideration, a one (1) year re-filing limitation from the date of the original application filing shall apply unless the Planning Commission grants an exception.