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Passed: August 20, 2019
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ORDINANCE NO 2019 - 9

AN ORDINANCE AMENDING SECTIONS 27-501, 27-502, 27-1106, and 27-1202, AS WELL AS CREATING SECTION 27-325, OF CHAPTER 27 OF THE CODE OF THE CITY OF HUTCHINSON, KANSAS

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF HUTCHINSON, KANSAS:

Section 1. That Article III, Section 27-325, Public Hearings and Notice, be created as follows:

Sec. 27-325 Public Hearings and Notice.

A. Planning Commission Public Hearings.

Unless provided for otherwise, the notice given for legislative and advisory proceedings, including amendments to this ordinance, the Official Zoning Map, and the Comprehensive Plan, as well as all other public hearings for zoning actions by the Planning Commission, shall be provided as set forth below;

1. Newspaper Notice. A notice shall be published in the official newspaper at least 20 days before the public hearing. The notice shall describe the proposed action and list the time and place of the public hearing.
2. First-Class Mail Notification. A notice of the proposed action shall be sent by first class mail by the zoning administrator at least 20 days before the public hearing to the following owners of property as shown on the Reno County tax records: (1) the property(ies) subject to the proposed action, (2) all parcels located within 200 feet of the subject property(ies), and (3) parcels within 1,000 feet in unincorporated areas if the subject property(ies) is adjacent to the city limits. Failure to receive the notice shall not invalidate any subsequent action taken when the notice has been properly addressed and deposited in the mail.
3. Sign to be Posted. A sign shall be posted by the Zoning Administrator on the subject property(ies) at least 20 days before the public hearing. Such sign shall be titled Zoning Action Pending, Contact information for the Planning & Development Department, and a brief summary of the requested action. When multiple parcels are involved in the application, each parcel is not required to be posted, if the parcels share the same road frontage.

B. Board of Zoning Appeals Public Hearings.

Unless provided for otherwise, the notice given for quasi-judicial proceedings, including variances and exceptions, as well as all other public hearings by the Board of Zoning Appeals established in Article XI of the *Zoning Regulations for the City of Hutchinson, Kansas*, shall be provided as set forth below;

1. Newspaper Notice. A notice shall be published in the official newspaper at least 20 days before the public hearing. The notice shall describe the proposed action and list the time and place of the public hearing.
2. First-Class Mail Notification. A notice of the proposed action shall be sent by first class mail by the zoning administrator at least 20 days before the public hearing to the following owners of property as shown on the Reno County tax records: (1) the property(ies) subject to the proposed action, (2) all parcels located within 200 feet of the subject property(ies), and (3) parcels within 1,000 feet in unincorporated areas if the subject property(ies) is adjacent to the city limits. Failure to receive the notice shall not invalidate any subsequent action taken when the notice has been properly addressed and deposited in the mail.
3. Sign to be Posted. A sign shall be posted by the Zoning Administrator on the subject property(ies) at least 20 days before the public hearing. Such sign shall be titled *Zoning Action Pending*, Contact information for the Planning & Development Department, and a brief summary of the requested action. When multiple parcels are involved in the application, each parcel is not required to be posted, if the parcels share the same road frontage.

Section 2. That Section 27-501 of Hutchinson City Code be amended as follows:

Sec. 27-501 Conditional Use Permits.

A. Intent.

Some types of land uses have unique characteristics or may impact the surrounding environment. Within a given zoning district, some land uses may be allowed only after a conditional use permit has been issued. Where specifically required by these regulations, conditional use permits shall be issued before:

1. New construction of any type may occur;
2. Construction of an addition may occur to an existing building where the total gross floor area of the addition totals 30 percent or more of the total gross floor area of the original building; or
3. A new land use of a different land use category than the former land use is permitted.

B. Application Procedure.

1. To obtain a conditional use permit, as provided for in these regulations, the property owner or authorized agent shall file an application. The application shall be filed with the Zoning Administrator. The application shall contain, at minimum:
 - a. A copy of the deed to the property;
 - b. The legal description of the pertinent parcel or parcels and a certified listing from either the Reno County Appraiser's Office or a title company of the names and addresses of all owners of all parcels or portions of parcels within 200 feet of the outer boundaries of the parcel or parcels within the City limits or within 1,000 feet of the outer boundaries of the parcel or parcels outside the City limits to which the application applies;
 - c. A statement of the proposed use of each parcel or parcels;
 - d. A sketch plan, drawn to scale, showing the location and exterior dimensions of all existing and proposed structures, yard improvements, landscaping, driveways, off-street parking areas, pedestrian walks and areas, storm water drainage facilities and exterior lighting fixtures in relation to parcel boundaries and adjacent street rights-of-way;
 - e. A list of the height or heights of any existing and proposed structures;
 - f. A statement listing property taxes and special assessments and a declaration that all of same have been paid; and
 - g. Any other information necessary to determine compliance of the proposed use with the terms of these regulations.

2. The applicant shall submit a written statement with the pertinent application at the time such application is submitted to the Zoning Administrator. Written statements should address:
 - a. How the proposed use is in keeping with the character of the neighborhood;
 - b. Whether the proposed use is consistent with the zoning and uses of nearby parcels;
 - c. The suitability of the parcel for its current zoning and use compared to the proposed use;
 - d. The extent of detrimental effects of the proposed use to nearby properties;
 - e. The length of time the property has been vacant prior to submittal of the application;
 - f. The hardship imposed upon the property owner if the application were denied;
 - g. How the proposed use helps to implement the Comprehensive Plan;
 - h. Whether public facilities and utilities are adequate to serve the proposed use;

- i. Aspects of the proposed use which minimize impacts on the neighborhood, nearby properties, the public health, safety and welfare, and public facilities and utilities; and
- j. Any other information that the property owner or authorized agent desires to submit including photographs, drawings, maps, statistics, legal documents, letters of support and other pertinent materials.

C. Conditional Use Permit Process.

- 1. Upon receipt of an application for a conditional use permit, the following procedures shall apply:
 - a. The Zoning Administrator shall set the date of a Planning Commission public hearing concerning the application. The public hearing shall be held within 60 days after the submittal date. The application shall be submitted in accordance with the application deadline schedule.
 - b. Notice for the proposed Conditional Use Permit shall be provided by the Zoning Administrator pursuant to Section 27.325.A of *Zoning Regulations for the City of Hutchinson, Kansas*.
 - c. The Zoning Administrator shall prepare a staff report which may summarize the applicable sections of these regulations including:
 - (i.) The character of the neighborhood;
 - (ii.) Existing land uses on neighboring parcels;
 - (iii.) Current zoning district boundaries; examine the suitability of the property for its current zoning and use compared to the proposed use;
 - (iv.) Possible detrimental effects on neighboring property if the application were approved;
 - (v.) Length of time the property has remained vacant as presently zoned;
 - (vi.) Comparison of the public health, safety and welfare gains to the hardship imposed on the landowner if the application were denied;
 - (vii.) Examine whether the proposed use conforms to the Comprehensive Plan;
 - (viii.) The impact of the proposed use on public facilities and utilities; and
 - (ix.) Other pertinent information and evaluations.
 - d. Prior to the public hearing, the Zoning Administrator shall notify the Planning Commission of the case, transmit copies of the application and staff report, forward copies of any associated correspondence and provide other pertinent reports and materials.
 - e. The Planning Commission shall conduct the public hearing according to any adopted procedures and consistent with Kansas law. During the public hearing, the Zoning Administrator shall make

- recommendations. The public hearing may be adjourned from time to time.
- f. The Planning Commission shall make a recommendation to the City Council. A majority of the members of the Planning Commission present and voting at the hearing shall be required to recommend approval or denial of the conditional use permit to the City Council. The Planning Commission may recommend approval of the conditional use permit or denial of the application.
 - g. The City Council shall consider the recommendation of the Planning Commission at a regularly scheduled meeting after the public hearing. The City Council shall be provided copies of all pertinent materials and a record of the public hearing. The City Council may approve an ordinance adopting the recommendation, override the Planning Commission's recommendation by a two-thirds vote of the membership of the City Council, or return the recommendation to the Planning Commission with a statement specifying the basis for the City Council's failure to approve or disapprove.
 - h. Should the City Council return an application to the Planning Commission for reconsideration, the Planning Commission, after considering the application at its next regularly scheduled meeting, may resubmit its original recommendation giving the reasons therefor or submit a new and amended recommendation. If the Planning Commission fails to act within this time limit, the original recommendation shall be resubmitted to the City Council. Upon receipt of the recommendation, the City Council, by a simple majority, may adopt or may revise or amend and adopt the recommendation, or it need take no further action thereon.
 - i. The conditional use permit shall become effective upon approval by the City Council.
2. The Planning Commission may recommend, and the City Council may approve a conditional use permit and may impose conditions including but not limited to the following:
- a. It may be stipulated that a parcel shall be developed according to a specific site plan.
 - b. It may be stipulated that screening and landscaping are required as shown on a specific site plan.
 - c. Permitted land uses, including accessory and temporary uses, may be specified.
 - d. Off-street parking areas and parking lots including:
 - (i.) Surfacing material and landscaping;
 - (ii.) Buffering, screening, and barriers;
 - (iii.) Orientation and layout;
 - (iv.) Accessibility, entrances and exits;
 - (v.) Impervious surfaces and storm water drainage;
 - (vi.) Signage and lighting; and

- (vii.) Maintenance and security.
- e. The number and location of curb cuts may be specified.
- f. Additional easements for utilities, egress and/or ingress.
- g. Special conditions that are required to accommodate new technologies and/or design solutions.
- h. Time limits of 30 days, 60 days, 90 days, 180 days or one year may be set to meet specific conditions of a conditional use permit.
- i. The material used to cover any structure elevation may be specified as completely or some combination of metal siding, stucco, shingles, vinyl siding, wood siding, brick, stone blocks, exposed stone panels, concrete, glass blocks, plate glass, decorative tiles, or other material.
- j. In commercially zoned districts, parcels that directly abut residential districts may be subject to regulation of hours of operation for outdoor activities. Directly abut means to have a common boundary or to have a common boundary upon an intervening alley.
- k. Any other conditions necessary to mitigate the impacts of the use and make the proposed use compatible with the neighborhood and surrounding properties.

D. Matters To Be Considered.

The Planning Commission and the City Council shall consider the following factors when approving or disapproving a conditional use permit request:

1. The character of the neighborhood;
2. The zoning and uses made of nearby property;
3. The suitability of the parcel for its current zoning and use compared to the proposed use;
4. The extent of detrimental effects to nearby properties if the application were approved;
5. The length of time the property has remained vacant prior to submittal of the application;
6. The relative gain to the public health, safety and welfare compared to the hardship imposed upon the landowner if the application were denied;
7. The conformance of the application to the comprehensive plan of the City;
8. The impact of the proposed use on public facilities and utilities; and
9. The recommendations of the professional city staff and their representatives.

E. Reapplication upon a Denial.

When a conditional use permit has been denied by the City Council, said action shall be final. Reapplication for the same use shall not be accepted or processed by the City until 365 days after date when the initial permit was denied by the City Council.

Section 3. That Section 27-502 of Hutchinson City Code be amended as follows:

Sec. 27-502 Special Use Permits.

A. Intent.

Some types of land uses have unique characteristics or a need to mitigate special impacts on the surrounding environment. Within a given zoning district, some land uses may be allowed only after a special use permit has been reviewed and approved by the Board of Zoning Appeals. In such cases, special use permits shall be issued before:

1. New construction of any type may occur;
2. Construction of an addition may occur to an existing building where the total gross floor area of the addition totals 30 percent or more of the total gross floor area of the original building; or
3. A new land use which is of a different land use category than the former land use may occupy a parcel.

B. Application Procedure.

1. To obtain a special use permit, the property owner or authorized agent shall file an application with the Zoning Administrator. The application shall contain, at minimum:
 - a. A copy of the property deed;
 - b. The legal description of the pertinent parcel or parcels and a certified listing from either the Reno County Appraiser's Office or a title company of the names and addresses of all owners of all parcels or portions of parcels within 200 feet of the outer boundaries of the parcel or parcels within the City limits or within 1,000 feet of the outer boundaries of the parcel or parcels outside the City limits to which the application applies;
 - c. A statement of the proposed use of each parcel or parcels;
 - d. A sketch plan, drawn to scale, showing the location and exterior dimensions of all existing and proposed structures, yard improvements, landscaping, driveways, off-street parking areas, pedestrian walks and areas, storm water drainage facilities and exterior lighting fixtures in relation to parcel boundaries and adjacent street rights-of-way;
 - e. A list of the height or heights of any existing and proposed structures;
 - f. A statement listing property taxes and special assessments and a declaration that all of same have been paid; and
 - g. Any other information necessary to determine compliance of the proposed use with the terms of these regulations.
2. The applicant shall submit a statement which shall become part of and be attached to the pertinent application. Statements shall be completed in writing and submitted to the Zoning Administrator when the pertinent application is submitted. Statements should address:

- a. How the proposed use is in keeping with the character of the neighborhood;
- b. Whether the proposed use is consistent with the zoning and uses made of nearby parcels;
- c. The suitability of the parcel for its current zoning and use compared to the proposed use;
- d. The extent of detrimental effects of the proposed use to nearby properties;
- e. The length of time the property has been vacant prior to submittal of the application;
- f. The hardship imposed upon the property owner if the application is denied;
- g. How the proposed use helps to implement the Comprehensive Plan;
- h. Whether public facilities and utilities are adequate to serve the proposed use;
- i. Aspects of the proposed use which minimize impacts on the neighborhood, nearby properties, the public health, safety and welfare, and public facilities and utilities; and
- j. Any other information that the property owner or authorized agent desires to submit including photographs, drawings, maps, statistics, legal documents, letters of support and other pertinent materials.

C. Special Use Permit Process.

- 1. Upon receipt of an application for a special use permit, the following procedures shall apply:
 - a. The Zoning Administrator shall set the date of a Board of Zoning Appeals public hearing concerning the application. The public hearing shall be held within 60 days after the submittal date. The application shall be submitted at least 30 days prior to a scheduled Board of Zoning Appeals meeting.
 - b. Notice for the proposed Special Use Permit shall be provided by the Zoning Administrator pursuant to Section 27.325.B of *Zoning Regulations for the City of Hutchinson, Kansas*.
 - c. The Zoning Administrator shall prepare a staff report which may summarize the applicable sections of these regulations including:
 - (i.) the character of the neighborhood;
 - (ii.) existing land uses on neighboring parcels;
 - (iii.) current zoning district boundaries;
 - (iv.) examine the suitability of the property for its current zoning and use compared to the proposed use;
 - (v.) possible detrimental effects on neighboring property if the application were approved;
 - (vi.) length of time the property has remained vacant prior to submittal of the application;

- (vii.) comparison of the public health, safety and welfare gains to the hardship imposed on the landowner if the application were denied;
 - (viii.) examine whether the proposed use conforms to the Comprehensive Plan;
 - (ix.) the impact of the proposed use on public facilities and utilities; and
 - (x.) other pertinent information and evaluations.
- d. Prior to the public hearing, the Zoning Administrator shall notify the Board of Zoning Appeals of the case, transmit copies of the application and staff report, forward copies of any associated correspondence and provide other pertinent reports and materials.
 - e. The Board of Zoning Appeals shall conduct the public hearing according to any adopted procedures and consistent with Kansas law. During the public hearing, the Zoning Administrator shall make recommendations. The public hearing may be adjourned from time to time.
 - f. The Board of Zoning Appeals shall make a final determination. A majority of the members of the Board of Zoning Appeals present and voting at the hearing shall be required to make a determination. All decisions of the Board of Zoning Appeals shall be final.
 - g. The special use permit shall become effective upon approval by the Board of Zoning Appeals.
2. Any appeal of a determination of the Board of Zoning Appeals shall be filed with the District Court of the County within 30 days of said determination.
 3. The Board of Zoning Appeals may impose conditions including but not limited to the following:
 - a. Permitted land uses including accessory and temporary uses may be specified.
 - b. The number and location of curb cuts may be specified.
 - c. Additional easements for utilities, egress and/or ingress.
 - d. Special conditions that are required to accommodate new technologies and/or design solutions.
 - e. Time limits of 30 days, 60 days, 90 days, 180 days or one year may be set to meet specific conditions of a special use permit.
 - f. The material used to cover any structure elevation may be specified as completely or some combination of metal siding, stucco, shingles, vinyl siding, wood siding, brick, stone blocks, exposed stone panels, concrete, glass blocks, plate glass, decorative tiles, or other material.
 - g. It may be stipulated that a parcel shall be developed according to a specific site plan.
 - h. It may be stipulated that screening and landscaping are required as shown on the site plan.
 - i. In commercially zoned districts, parcels that directly abut residential districts may be subject to regulation of hours of operation for outdoor

activities. Directly abut means to have a common boundary or to have a common boundary upon an intervening alley.

- j. Off-street parking areas and parking lots.
- k. Any other conditions necessary to make the proposed use compatible within the area and adjacent properties.

D. Matters To Be Considered.

The Board of Zoning Appeals shall consider the following factors when approving or disapproving a special use permit request:

1. The character of the neighborhood;
2. The zoning and uses made of nearby property;
3. The suitability of the property for its current zoning and use compared to the proposed zoning and use;
4. The extent of detrimental effects to nearby properties if the application were approved;
5. The length of time the property has remained vacant;
6. The relative gain to the public health, safety and welfare compared to the hardship imposed upon the landowner if the application were denied;
7. The conformance of the application to the comprehensive plan of the City;
8. The impact of the proposed use on public facilities and utilities; and
9. The recommendations of the professional city staff and their representatives.

E. Reapplication upon a Denial.

When a special use permit has been denied by the Board of Zoning Appeals, said action shall be final. Reapplication for the same use shall not be accepted and processed by the City until 365 days after the date when the initial permit was denied by the Board of Zoning Appeals.

Section 4. That Section 27-1106 of Hutchinson City Code be amended as follows:

Sec. 27-1106 Public Hearing and Notice.

The Board of Zoning Appeals shall fix a reasonable time for hearing of an appeal or other matters referred to it. Notice for such hearing shall be provided by the Zoning Administrator pursuant to Section 27.325.B of *Zoning Regulations for the City of Hutchinson, Kansas*.

Section 5. That Section 27-1202 of Hutchinson City Code be amended as follows:

Sec. 27-1202 Zoning District Amendments.

Upon receipt of an application for a zoning district amendment, the following procedures shall apply:

- A. The zoning administrator shall set the date of a Planning Commission public hearing concerning the application. The public hearing shall be held within 60 days after the submittal date. The application shall be submitted at least 30 days prior to a scheduled Planning Commission meeting in order to schedule a public hearing at that meeting.
- B. Notice for the proposed zoning district amendment shall be provided by the Zoning Administrator pursuant to Section 27.325.A of *Zoning Regulations for the City of Hutchinson, Kansas*.
- C. The zoning administrator may post on the site a sign announcing the time and date of the public hearing. This sign will be posted at least seven days prior to the public hearing.
- D. The zoning administrator shall prepare a staff report which may summarize the applicable sections of these regulations; describe the character of the neighborhood; list existing land uses on neighboring parcels; describe current zoning district boundaries; examine the suitability of the property for its current zoning; list detrimental effects on neighboring property if the amendment were approved; examine the length of time the property has remained vacant as presently zoned; compare the public health, safety and welfare gains to the hardship imposed on the landowner if the amendment were denied; examine whether the proposed amendment conforms to the Comprehensive Plan; evaluate the impact of the proposed amendment on public facilities and utilities; and contain other pertinent information and evaluations.
- E. Comments may be solicited from the Reno County, the City of South Hutchinson, the County Health Officer, and other affected agencies. Copies of the application, staff report and other relevant information shall be made available.
- F. Copies of the application, public hearing notice, and staff report shall be distributed prior to the public hearing by the zoning administrator to the City of South Hutchinson, Reno County and other appropriate entities.
- G. Prior to the public hearing, the zoning administrator shall notify the Planning Commission of the case, transmit copies of the application and staff report, forward copies of any associated correspondence and provide other pertinent reports and materials.
- H. The Planning Commission shall conduct the public hearing according to any adopted procedures and consistent with Kansas law. During the public hearing, the zoning administrator shall make what recommendations he/she deems appropriate. The public hearing may be adjourned from time to time.
- I. In most cases immediately following the public hearing, the Planning Commission shall make a recommendation to the City Council. A majority of the members of the Planning Commission present and voting at the hearing shall be required to recommend approval or denial of the amendment to the City Council. The

Planning Commission may recommend approval of the zoning district amendment or denial of the application. If the Planning Commission fails to make a recommendation on a rezoning request, the Planning Commission shall be deemed to have made a recommendation of disapproval.

- J. The City Council shall consider the application at a regularly scheduled meeting not less than 14 days after the public hearing. The City Council may approve an ordinance adopting the recommendation by simple majority, override the Planning Commission's recommendation by a two-thirds vote, or return the recommendation to the Planning Commission with a statement specifying the basis for the City Council's failure to approve or disapprove.
- K. Should the City Council return an application to the Planning Commission for reconsideration, the Planning Commission, after considering the application at its next regularly scheduled meeting, may resubmit its original recommendation giving the reasons therefor or submit a new and amended recommendation. If the Planning Commission fails to act, the original recommendation shall be resubmitted to the City Council. Upon receipt of the recommendation, the City Council, by a simple majority, may adopt or may revise or amend and adopt the recommendation by ordinance, or it need take no further action thereon.
- L. The rezoning shall become effective upon publication of the adopting ordinance.
- M. The Planning Commission may recommend and the City Council may approve an ordinance adopting a zoning district amendment which only affects a portion of the parcel or parcels described in the notice.

Section 6. That all other sections of Chapter 27 shall remain in full force and effect.

Section 7. This ordinance shall take effect and be in force from and after its passage and publication once in the official City newspaper.

PASSED BY THE GOVERNING BODY, this 20th day of August, 2019, for the City of Hutchinson, Kansas.

David A. Inskeep, Mayor

ATTEST:

Karen Weltmer, City Clerk