

Sections:**8-101 Purpose****8-102 Application, Review, Approval Procedure****8-103 Development Plan****8-104 Development Plan - Planning Commission Review****8-105 Development Plan - Phasing, Time Restrictions****8-106 Appeals of Planning Commission Action on Development Plan****8-107 Remedies for Noncompliance**

8-101 Purpose: The procedures and requirements set forth in this Article, or the requirements set forth elsewhere in this Code when referred to in this Article, are for the development plans required for Conditional Use Permits designated elsewhere in this Code. These requirements are specifically intended to accommodate the consideration of an application for a Conditional Use under the provisions of these Regulations. The erection, construction, reconstruction, moving or altering on an individual lot or property of a single-family residential unit shall not be subject to the provisions of this Article.

The requirements and standards herein prescribed by these Regulations pertaining to height, open space, setbacks, parking, loading, and signs may be adjusted or modified so that the property in question may be developed in a reasonable manner and, at the same time, will not be detrimental to the public welfare and the interests of the community, but in keeping with the general intent and spirit of these Regulations. Such adjustments or modifications may be permitted in the Development Plan approval as a part of the Conditional Use process, or may be allowed upon request of the applicant after approval by the Metropolitan Planning Commission and Governing Body as an amendment to a previously approved Development Plan or as a first approval of a Development Plan on properties that have never had an approved Development Plan. Said modifications shall not be made by administrative approval of a Development Plan.

8-102 Application, Review, Approval Procedure: In order to assure that proposed uses requiring Conditional Use Permits meet the requirements of these Regulations and will be compatible with surrounding properties and uses, it is hereby required that all applications for a Conditional Use Permit, except those uses exempted in Section 8-101 above, include a Development Plan which must be approved as specified within this Article prior to any construction on the property.

The procedure for approval of a Development Plan shall consist of the following:

1. Application for a Conditional Use Permit, and;
2. A Development Plan.

The development plan shall be submitted at the time the application is submitted and no application shall be deemed complete nor set for public hearing until said development plan is submitted. No building permit shall be issued for a use requiring a Conditional Use Permit until the development plan for the entire property and/or each phase of development has been approved in accordance with the provisions of these Regulations.

Properties granted a Conditional Use Permit at the time of the initial adoption of these Regulations may construct additions to existing buildings by obtaining administrative approval of a development plan by the Zoning Administrator if the Zoning Administrator deems such improvements are within the spirit and intent of these Regulations. If the Zoning Administrator finds the additions or modifications are beyond administrative approval, then the Development Plan approval must be process through the Metropolitan Planning Commission and Governing Body.

8-103 Development Plan: Application for a Conditional Use and Development Plan approval shall be made in accordance with the procedures outlined in Article 20 of these Regulations. The application shall include a Development Plan which describes the applicant's intentions for the use and development of the property. The Development Plan shall include and/or display the following information:

1. When deemed necessary, a topographic survey indicating the legal description, property boundary, existing contours, existing utilities and easements, and natural and manmade features of the property.
2. A Development Plan, drawn to the same scale as the topographic survey, indicating:
 - A. existing contours (shown as dashed lines);
 - B. proposed contours (shown as solid lines);
 - C. location and orientation of all existing and proposed buildings;
 - D. areas to be used for parking, including the number and arrangement of stalls;
 - E. areas to be developed for screening, including the location of plant materials, and screening structures and features;
 - F. pedestrian and vehicular circulation, and their relationship to existing streets, alleys and public right-of-way;
 - G. points of ingress and egress;
 - H. location of all existing and proposed utilities (sanitary sewage systems, water systems, storm drainage systems, gas lines, telephone lines and electrical power lines);
 - I. drainage controls (retention or detention ponds);
 - J. location, size and characteristics of identification and business signs;
 - K. lighting layout, appurtenances, and intensity of illumination;
 - L. proposed finished floor elevations of all buildings and structures.
3. A statement of intent shall accompany the Development Plan to explain the measures used to achieve compatibility of the proposed development with surrounding properties through the planning of the site and the location and design of structures.

8-104 Development Plan – Planning Commission Review: The Metropolitan Planning Commission shall review the application for a Conditional Use Permit, along with the Development Plan, and shall recommend approval or denial of the Conditional Use Permit along with the Development Plan to the Governing Body, or may request modifications to the Development Plan as deemed necessary to carry out the spirit and intent of these Regulations. Approval by the Governing Body shall constitute approval and permanency of the Development Plan, thereby establishing the criteria for construction of the proposed development.

In the process of reviewing any Development Plan, the Metropolitan Planning Commission and/or Governing Body may provide approval of the Development Plan conditioned upon certain limitations or restrictions deemed necessary to protect the public interest and surrounding properties, including, if any, the following:

1. Limitations on the type, illumination and appearance of any signs or advertising structures.
2. Direction and location of outdoor lighting.
3. Arrangement and location of off-street parking and off-street loading spaces.
4. The type of paving, landscaping, fencing, screening and other such features.
5. Limitations on structural alterations to existing buildings.
6. Prohibition of use or construction of any structure to be used for a single-family dwelling, including a manufactured home.
7. Plans for control or elimination of smoke, dust, gas, noise or vibration caused by the proposed use.
8. Waiver of any standards, requirements or depiction of information required by this Article when requested by the applicant and shown to be unnecessary as applied to the specific case in question.
9. Such other conditions and/or limitations that are deemed necessary.

8-105 Development Plan - Phasing, Time Restrictions: The Governing Body shall review the Development Plan and shall act on said plan in a reasonable time period. Upon approval by the Governing Body, the Development Plan shall be filed for record in the office of the Zoning Administrator. In addition, an affidavit shall be recorded with the Geary County Register of Deeds indicating a Development Plan has been approved and is on record with the Zoning Administrator and that revisions or alterations to the property must be made in accordance with the Development Plan. The applicant may proceed with construction based on the entire Development Plan, or may elect to develop the property in phases. The applicant may submit the Development Plan separately for the first and each successive phase of construction, or for all of the project with a depiction of the phasing sequence; however, all Conditional Uses approved with a Development Plan shall have construction begun within one (1) year of said approval by the Governing Body. The applicant may request a one (1) year extension of this time restriction by submitting a request in writing to the Governing Body stating the reasons construction has not begun and at what time construction is expected to begin. If the Governing Body agrees, the one (1) year extension may be granted one time but shall not be granted for any longer period.

After the Development Plan has been approved, and when in the course of carrying out the Development Plan, minor adjustments are requested by the applicant and such adjustments conform to the minimum standards established by the approved Development Plan for building coverage, parking spaces, points of ingress and/or egress, heights, setbacks and/or other requirements, such adjustments may be made by the Zoning Administrator. If the requested adjustments are deemed by the Zoning Administrator to exceed the minimum standards established by the approved Development Plan, the revised Development Plan must be submitted to and approved by the Metropolitan Planning Commission and Governing Body before any further work can proceed. At no time shall the Conditional Use previously approved be subject to disapproval. The only issue in said review shall be the requested revisions to the previously approved Development Plan.

Those properties granted a Conditional Use Permit at the time of adoption of these Regulations and which do not have an approved Development Plan may submit a Development Plan at any time for administrative approval by the Zoning Administrator, including to propose an enlargement, expansion or other improvement of said use as permitted by these Regulations. If the Zoning Administrator deems the proposal beyond his/her authority, the owner may submit the proposed Development Plan to the Metropolitan Planning Commission as outlined in the paragraph above.

8-106 Appeals of Planning Commission Action on Development Plan: Any decision of the Metropolitan Planning Commission regarding development plans may be appealed to the Governing Body, whose decision shall be final. An appeal shall be filed in writing with the Zoning Administrator not later than fifteen (15) days following the date of the Metropolitan Planning Commission's final action. If no appeal is taken within that time, the decision of the Metropolitan Planning Commission shall be final. The appeal shall set forth the basis for the appeal and the relief sought by the applicant. The Zoning Administrator shall schedule the appeal before the Governing Body no later than thirty (30) days following the filing of the appeal. The Zoning Administrator shall notify all interested persons in writing of the time and place of the Governing Body's meeting at least ten (10) days prior to said meeting.

8-107 Remedies for Noncompliance: If the applicant fails to comply with any of the restrictions or limitations established with an approved Development Plan, including the time requirements herein established, the approved Development Plan shall be declared null and void and no permit for construction shall be issued until a new Development Plan has been approved following the procedures previously cited. The Conditional Use Permit shall remain in effect but shall do so without an approved Development Plan. If the approved Development Plan is voided, the Metropolitan Planning Commission or the Governing Body may initiate an action to have the Conditional Use permit revoked.