

Sec. 29-6.3. - Standard regulatory procedures.

All applications under this chapter are subject to the procedural requirements in this section 29-6.3 unless exempted by the terms of this chapter.

(a) *Application: Materials and fees required.*

- (1) Unless otherwise indicated by a specific provision of this chapter, the applicant for a permit or approval under this chapter must be the owner of the property that is the subject of the application or a duly authorized agent of the owner. An applicant who is the purchaser of the subject property under a contract must provide proof that the applicant is an authorized agent of the owner of the subject property for purposes of the application.
- (2) Unless otherwise indicated by a specific provision of this chapter or another city ordinance or regulation, applications for permits and approvals under this chapter shall be submitted to the community development department.
- (3) An applicant for a permit or approval under this chapter shall be required to file an application containing all information required for that type of application by the department, as those requirements may be revised from time.
- (4) Each applicant for a permit, approval, or appeal under this chapter shall be required to file an application fee as established by the council from time to time.
- (5) Schedule of fees. The following processing fees are established:
 - (i) Preliminary plat \$600.00 + \$10.00 per lot
 - (ii) Final plat (in addition to recording fee) \$400.00 + \$10.00 per lot
 - (iii) Replat (in addition to recording fee) \$300.00 + \$10.00 per lot
 - (iv) Rezoning (in addition to advertising):
 - 0 to 2 acres \$300.00
 - Greater than 2 acres to 5 acres \$450.00
 - Greater than 5 acres to 10 acres \$600.00
 - Greater than 10 acres to 15 acres \$900.00
 - Greater than 15 acres to 20 acres \$1,200.00
 - Greater than 20 acres \$1,500.00
 - (v) Planned district development plan or major revision to a development plan (in addition to advertising):
 - 0 to 2 acres \$300.00
 - Greater than 2 acres to 5 acres \$450.00
 - Greater than 5 acres to 10 acres \$600.00
 - Greater than 10 acres to 15 acres \$900.00
 - Greater than 15 acres to 20 acres \$1,200.00
 - Greater than 20 acres \$1,500.00
 - (vi) Minor revisions to planned district development plan \$200.00

- (vii) Vacation of public easement, street or alley (in addition to recording fee) \$350.00
- (viii) Variance from subdivision regulations \$350.00
- (ix) Rezoning from any district to district R-1, **or district O** (advertising fee shall apply)
No application fee
- Rezoning from district ~~R-3 or R-4~~ **R-MF** to district R-2, (advertising fee shall apply)
No application fee
- Rezoning to district H-P No application or advertising fee

Waiver of the advertising costs for any rezoning application for which there is no application fee may be authorized by the city council upon written request of the applicant. Any such waiver shall be requested and granted or denied prior to the filing of the rezoning application.

- (x) Annexation petitions (voluntary or agreement) \$250.00 (in addition to advertising)
- (xi) Rezoning to equivalent or lesser intensity Boone County zoning concurrent with annexation petition No fee
- (xii) Hearing Continuance (applicant request after advertising) \$100.00
- (xiii) Administrative Plat \$200.00 + \$10.00 per lot
- (xiv) Plat Vacation (abrogation) \$300.00
- (xv) Cell Tower (new) \$1,500.00
- (xvi) Cell Tower (co-locate) \$250.00

(b) *Complete application required.* No application for a permit, approval, or appeal under this chapter shall be reviewed by city staff, or scheduled for a public hearing before the applicable board or commission, and no permit or approval under this chapter shall be issued, until the department has confirmed that required application materials are complete and required fees have been paid. The burden of providing complete and accurate information required by the department for that type of application shall be on the applicant.

(c) *Notice of public hearing.*

(1) *General.*

- (i) When this chapter requires that a board or commission hold a public hearing prior to making a recommendation or decision, the types of public notice set forth herein shall be provided.
- (ii) The provisions of this subsection (c) shall be considered met if the city or the applicant has attempted to comply with the standards and has achieved substantial compliance and the requirements of due process have been satisfied, as determined in the sole discretion of the city. Unintentional mistakes in notice due to inaccurate records or failures of notification systems shall not require the delay or cancellation of a public hearing if substantial compliance and due process have been achieved.
- (iii) The city may decide to provide additional notice beyond that required by this chapter, and no mistake or omission in providing any additional notice will require the delay or cancellation of a public hearing.
- (iv) When the application that is the subject of the public hearing involves one or more specific lots, tracts, parcels, or areas of land (as opposed to an ordinance text amendment that affects all land in the city or in specific base or overlay zone districts, or affects all development of a certain type), the required notice shall contain an address or description of the general location of the real property to be affected, and a map of the real property to be affected and the surrounding area.

- (v) Where the required notice will require publication or mailing expenses, those expenses (or a deposit sufficient to cover the expenses) shall be paid by the applicant before the public hearing may be held.
 - (vi) Unless otherwise indicated by a specific provision of this chapter or another city ordinance or regulation, all required notices under this chapter shall be the responsibility of the community development department.
- (2) *Published notice.*
- (i) If the application is for an text or zoning map amendment, a conditional use permit, variance, an appeal, or other request for relief or action from the board or commission, or for any action authorized in this chapter for which public notice is required under applicable law, the director shall cause a notice of the date, time, and location of the public hearing to be published in a newspaper of general circulation within the city at least fifteen (15) days before the public hearing. The public notice shall include the action requested, including the current and proposed zoning district for each rezoning request, the telephone number of the department, and all other information required under City Code or applicable law.
- (3) *Posted notice.*
- (i) If the application is for a zoning map amendment, a conditional use permit, or a variance, from the board or commission, the director may, as a courtesy, place conspicuous notification signs facing each street abutting the property that is the subject of the application. The failure of the director to place notification signs shall not affect the validity of any action taken on the aforementioned items.
 - (ii) When the application is for a certificate of appropriateness or a certificate of economic hardship under section 29-2.3(c) (historic preservation overlay) the director shall place a conspicuous notification sign facing a public street abutting the property that is the subject of the application. The sign face of notification signs shall be at least five (5) square feet. Notification signs shall contain, or have attached to them, information on the proposed change to the property, the date and time of the historic preservation commission meeting, and the telephone number of the department.
- (4) *Mailed notice.* If the application is for a zoning map amendment, a conditional use permit, or an appeal, variance, or other request for relief or action from the board or commission, the department shall send first class mail notice of the public hearing to the addresses of the residences of the land proposed to be rezoned and to the owners of all land within lines drawn parallel to and one hundred eighty-five (185) feet from the boundaries of the land which is the subject of the requested action.
- (5) *Electronic notice.* The director may, as a courtesy, send electronic notice to any persons or organizations in the city, or to any governmental, public, or quasi-public organization regarding any matter related to this chapter that may affect the interests of that person or organization, or on any matter on which any such person or organization has requested notice. The failure of the director to send such notice or the failure of any resident or property owner to receive such notice shall not affect the validity of any ordinance affecting such land.
- (d) *Decisions under this chapter.*
- (1) Unless otherwise indicated in a specific provision of this chapter, the director, department, board, commission, or council authorized to make a decision under this chapter may approve the application, deny the application, or approve the application subject to conditions as stated in subsection (e) below.
 - (2) When this chapter authorizes a director, department, board, commission, or council to make a decision under this chapter, that decision shall be made pursuant to the specific criteria applicable to the application in section 29-6.4 (specific regulatory procedures). If

section 29-6.4 does not include specific criteria for that type of decision, the director, department, board, commission, or council shall make the decision based on whether the application complies with this chapter and any regulations authorized by this chapter, and will protect the public health, safety, and welfare.

- (3) Unless otherwise stated in this chapter, or unless a different condition is attached to a permit or approval, permits and approvals granted under this chapter are not affected by changes in ownership or tenancy of the property.
- (e) *Conditions on approvals.*
- (1) The department, board, commission, or council may attach conditions to any permit or approval under this chapter, provided that the condition is required to bring the development proposed in the application into compliance with the requirements of this chapter.
 - (2) In addition, the board, commission or council may attach conditions to any permit or approval under this chapter, provided that the condition is required to bring the development proposed in the application into compliance with the adopted comprehensive plan of the city or to protect the public health, safety, or welfare.
- (f) *Appeals.* Decisions of the director or the department in the application of the subdivision standards of section 29-5.1 may not be appealed to the board, but requests for design adjustments to the subdivision standards may be made to the commission and/or the council during the subdivision of land process in section 29-5.2.
- (1) Appeals to the board may be taken by any person aggrieved, or by any officer, department, board or bureau of the city affected by any decision of an administrative official in the administration or enforcement of this chapter. The appeal shall be taken within a reasonable time, as provided by the rules of the board, by filing with the officer from whom the appeal is taken and with the board a notice of appeal specifying the grounds of the appeal, including the section of this chapter that is inconsistent with the decision being appealed. The officer from whom the appeal is taken shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken. An applicant shall deposit a sum sufficient to pay the costs of advertising as required by statute and ordinance. The director shall inform an applicant of the estimated cost of advertising and require a deposit sufficient to meet the costs upon filing. All unexpended portions of the deposit shall be returned to the applicant after the actual costs of advertising have been met.
 - (2) An appeal stays all proceedings related to the action appealed from, unless the officer from whom the appeal is taken certifies to the board, after the notice of appeal shall have been filed with such officer, that by reason of facts stated in the certificate, a stay would, in the opinion of the officer, cause imminent peril to life or property. In such case proceedings shall not be stayed otherwise than by a restraining order granted by the board or by a court of record, on application or notice to the officer from whom the appeal is taken and on due cause shown.
 - (3) The board shall fix a reasonable time for the hearing of the appeal, give public notice of the hearing, as well as due notice to the parties in interest, and decide the appeal within a reasonable time. At the hearing any party may appear in person, by agent, or by attorney.
 - (4) In exercising the above-mentioned powers, the board may reverse or affirm, wholly or partly or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made, and to that end, shall have all powers of the administrative official from whom the appeal is taken.