

## **RESOLUTION 2019-23**

A resolution of the Leavenworth County Kansas Board of County Commission, to amend the following articles of the 2006 Zoning and Subdivision Regulations:

### **Article – 22 Special Use Permits and Temporary Use Permits**

#### **Section 3 – Procedures;**

Following the public hearing, the Planning Commission shall make a recommendation for approval or disapproval of the application to the Board of County Commissioners. A majority vote of the membership of the Planning Commission is required in order to make a recommendation.

When the Planning Commission submits a recommendation of approval or disapproval of a Special Use Permit, the Board of County Commissioners may adopt the same, amend the recommendation, or disregard the recommendation by resolution. Upon receipt of a recommendation of the Planning Commission with which the Board of County Commissioners disagrees, the Board of County Commissioners may return the recommendation to the Planning Commission with a written statement specifying the basis of disagreement. The Planning Commission may choose to reconsider the issue. After reconsideration of the same, the Planning Commission may resubmit their written recommendation, giving the reasons thereof, or submit a new recommendation. The Board of County Commissioners may only return a recommendation to the Planning Commission only one time.

(BOCC Resolution 2007-50; October 2, 2007)

Regardless of the recommendation of the Planning Commission, if a valid protest petition against a proposed amendment or Special Use Permit is filed in the office of the County Clerk within fourteen (14) days after the date of the conclusion of the hearing, duly signed and acknowledged by the owners of twenty (20) percent of the total area, excepting public streets and ways, which is located within one-thousand (1,000) feet of the boundaries of the property for which a Special Use Permit is sought, such permit shall not be approved except by at least a 3/4 vote of the Board of County Commissioners.

### **Article- 22 Special Use Permits & Temporary Use Permits**

#### **Section 10 – Temporary Uses;**

The purpose of this Article is to provide for the temporary use of land for special events in a manner consistent with its normal use and beneficial to the general welfare of the public. The following types of temporary uses are permitted in any district upon review and finding of the Department of Planning & Zoning that the proposed use is in the public interest. The use shall be approved for a specific short-term duration. The following is a list of typical Temporary Uses which may be reviewed and permitted by the Director of Planning and Zoning. In the event that the Director of Planning and Zoning denies the request, the applicant shall receive written notice from the Director within 10 days of application submittal.

Type 1: Fund-raising or non-commercial events for nonprofit religious, educational, or community service organizations; including any on-site signs and structures used in conjunction with the event. Examples of these types of events include, but are not limited to: fun runs, bicycle races, foot races, ATV rides, auctions and other related activities. The following items shall be required:

- a. Organizations with appropriate documentation of 501(c)(3) status shall be exempt from application fees for a Temporary Special Use Permit.
- b. Organizations with appropriate documentation of 501(c)(3) status shall be required to submit an application for a Temporary Special Use Permit. Applications and all required supporting

documents, shall be submitted to the Planning and Zoning Department a minimum of 30 days prior to the anticipated event.

- c. The application shall require review and approval by the Road and Bridge Superintendent if the event is to be held on public roads or public rights-of-way.
- d. The application shall require review and approval by the Department of Emergency Management.
- e. In the event that Sheriff/Deputy presence is needed to control traffic, the applicant shall coordinate payment and scheduling directly with the Sheriff's department. This documentation shall be included with the application submittal.

Type 2: Fund-raising or non-commercial events for for-profit organizations: including any on-site signs and structures used in conjunction with the event. Examples of these types of events include, but are not limited to: fun runs, bicycle races, foot races, ATV rides auctions, and other related activities. The following items shall be required:

- a. Payment of application fee as set by the Board of County Commissioners per Resolution 2010-10 and as amended.
- b. Applications, and all required supporting documents, shall be submitted to the Planning and Zoning Department a minimum of 30 days prior to the anticipated event.
- c. The application shall require review and approval by the Road and Bridge Superintendent if the event is to be held on public roads or public rights-of-way.
- d. The application shall require review and approval by the department of Emergency Management.
- e. In the event that Sheriff/Deputy presence is needed to control traffic, the applicant shall coordinate payment and scheduling directly with the Sheriff's department. This documentation shall be included with the application submittal.

Type 3: Fireworks stands either non-profit or for-profit: including any on-site signs and structures used in conjunction with the event. The following items shall be required:

- a. Payment of application fee as set by the Board of County Commissioners per Resolution 2019-XX. (Staff is recommending a fee based upon costs associated with inspections and staff review process)
- b. Applications, and all required supporting documents, shall be submitted to the Planning and Zoning Department a minimum of 30 days prior to the opening of the fireworks stand.
- c. Fireworks stands shall not be permitted on public roads or within public rights-of-way.
- d. Applications shall require review and approval by The Department of Emergency Management.

- e. Fireworks stands shall be located on private property and applicants shall submit with application an "Owner's Authorization" with property owners signature and the Authorization shall be notarized.
- f. Applicants shall submit proof of required insurance and applicable bonds.
- g. Adequate off-street parking shall be required.

#### Section 11. TEMPORARY USES REQUIRING BOARD OF COUNTY COMMISSION REVIEW

The following temporary uses are permitted in any district upon review and finding of the Board of County Commissioners that the proposed use is in the public interest. The use shall be approved for a specific short-term duration and shall be subject to conditions.

Type 4: Public or private events intended primarily for entertainment or amusement, such as concerts, festivals, carnivals, circuses or parades, or as temporary "one-time" activities of a generally short durations, particularly such activities as "locational" work by film companies

Type 5: The temporary placement of a laydown yard, portable asphalt or concrete plant and attendant materials and equipment during construction work on any public road or public infrastructure. All other temporary uses that are similar to the listed uses in function, traffic-generating capacity, and effects on other land uses.

#### Notification Requirements

Events requiring a Temporary Special Use Permit which requires review and approval by the Board of County Commissioners shall require public notification and a public hearing.

- 1. Events associated with a singular parcel shall require written notification to neighboring property owners within 1000 feet of the property seven (7) days prior to the public hearing.
- 2. Events occurring throughout the County, such as: Filming shall require public notice...via publication in the local Newspaper seven (7) days prior to the public hearing. (BOCC Resolution 2015-35; September 24, 2015)

#### Application Requirements

The following items shall be required for a Temporary Special Use Permit:

- a. Payment of application fee as set by the Board of County Commissioners per Resolution 2010-10 and as amended.
- b. Applications, and all required supporting documents, shall be submitted to the Planning and Zoning Department a minimum of 30 days prior to the anticipated event.
- c. The application shall require review and approval by the Road and Bridge Superintendent if the event is to be held on public roads or public rights-of-way.
- d. In the event that Sheriff/Deputy presence is needed to control traffic, the applicant shall coordinate payment and scheduling directly with the Sheriff's department. This documentation shall be included with the application submittal.

- e. Not more than three (3) Temporary Special Use Permits per parcel shall be granted each year. (BOCC Resolution 2015-35; September 24, 2015).

## Section 12. PRIVATE EVENTS

Events meeting the definition of "Private Event" as defined by Article 3- Definitions- of these Regulations shall not require a Temporary Special Use Permit.

### **Article – 31 Amendments**

#### Section 2 – Procedures;

The changes to this regulation are the result of the Board of County Commissioners changing from a three-member body to a five-member body. This results in a change to the application of the "protest petition," Instead of a unanimous vote to overturn a Planning Commission Regulation, a valid protest petition requires a ¾ majority vote.

All applications or requests for amendments, revisions or changes to the Zoning Resolution or the Zoning District Boundary Map or for Special Use Permits shall be made to the Administrative Officer on such forms as are provided. Immediately upon receipt of a complete application, with the fee required by the Leavenworth County Fee Schedule as adopted by the Board of County Commissioners, the Administrative Officer shall note the date and make a permanent record thereof. All such hearings shall be set for hearing before the Planning Commission within sixty (60) days of submission of a complete application. Notice of hearing shall be published in the official county newspaper not less than twenty (20) days prior to the date of the hearing. In addition, notices shall be sent by mail to the owners of all property located within the unincorporated area of the county within one-thousand (1,000) feet of the area proposed to be rezoned (the notice area shall extend two hundred (200) feet in those areas where the notification area extends within the corporate limits of a city) at least twenty (20) days prior to the date of the hearing.

An affirmative vote by a majority of the members present and voting shall constitute a recommendation by the Planning Commission on a zoning change. On any other matter before the Planning Commission, a majority vote of the entire membership is required to make a recommendation or take other action.

When the Planning Commission submits a recommendation of approval or disapproval of such amendment, the Board of County Commissioners may adopt the same by resolution. Upon receipt of a recommendation of the Planning Commission with which the Board of County Commissioners disagrees, the Board of County Commissioners may return the recommendation to the Planning Commission with a statement specifying the basis of disagreement or take such action as they deem appropriate. If a recommendation is returned to the Planning Commission, it shall, after reconsideration of the same, resubmit their recommendation, giving the reasons thereof, or submit a new recommendation.

Regardless of the recommendation of the Planning Commission, if a valid protest petition against a proposed amendment is filed in the office of the County Clerk within fourteen (14) days after the date of the conclusion of the hearing, duly signed and acknowledged by the owners of twenty (20) percent or more of the property proposed to be rezoned or by the owners of twenty (20) percent of the owners of the total area, excepting public streets and ways, which is located within one-thousand (1,000) feet of the boundaries of the property proposed to be rezoned, such amendment shall not be approved except by a ¾ vote of the Board of County Commissioners.

**Article 50 – Minimum Subdivision Design Standards and General Requirements**

Section 40.f – Cul-de-sacs;

Cul-de-sacs and Dead-end Streets: Except in cases where the unusual topographic conditions may make it advisable to modify these provisions, the following shall apply:

- 1) The radius of a cul-de-sac shall be as stated above and depends on the type of road. The minimum radius for any road for vehicular turnaround shall be forty (40) feet and the minimum radius for right-of-way shall be fifty (50) feet.
- 2) In the case of temporary dead-end roads, which are stub streets designed to provide future connection with adjoining unsubdivided areas, the Planning Board may require a temporary easement for a turnaround of a nature indicated above.
- 3) When a subdivision is replatted or the existing road ends and is to be extended, the existing cul-de-sac shall be eliminated and removed and the road brought up to the standards specified in Leavenworth County’s Road Construction and Storm Water Drainage Standards, 1994 Edition, or latest edition as approved by the Board of County Commissioners.

WHEREAS, it is hereby found that the Leavenworth County Planning Commission, after notice as required by law, did conduct a public hearing upon the amendment of the Leavenworth County Zoning and Subdivision Regulations the 14<sup>th</sup> day of August, 2019; and

WHEREAS, it is hereby found that the Leavenworth County Planning Commission, based upon specific findings of fact incorporated by reference herein, did recommend that the amendment be approved, as set forth; and

WHEREAS, the Board of County Commission considered, in session on 4<sup>th</sup> day of September, 2019, the recommendation of the Leavenworth County Planning Commission.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commission of Leavenworth County, Kansas, that:


1. Based upon the recommendation and findings of fact of the Leavenworth County Planning Commission; and,
2. Based upon the findings of fact adopted by the Board of County Commission in regular session on the 4<sup>th</sup> day of September, 2019 and incorporated herein by reference;

That the amendments listed herein be approved:

Adopted this 4<sup>th</sup> day of September, 2019  
Board of County Commission  
Leavenworth, County, Kansas

  
\_\_\_\_\_  
Doug Smith, Chairman

ATTEST

  
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Jeff Gilbertson, Member



Janet Klavmki  
Janet Klavmki

Vicky Kaaz  
Vicky Kaaz, Member

Chad Schimke  
Chad Schimke, Member

Mike Stieben  
Mike Stieben, Member