

ARTICLE 9. ADMINISTRATION AND ENFORCEMENT

100 Office of the Zoning Administrator. A Zoning Administrator shall be appointed by the Mayor with the consent of the City Council. The Zoning Administrator and clerical assistance as shall be approved from time to time shall administer and enforce these regulations, except for those duties specifically assigned to the Clerk and the City Attorney.

A. Duties of the Zoning Administrator. (See Section 9-102 for Enforcement and Liability.)

1. Approve and issue all zoning permits and occupancy certificates and make and maintain records thereof.
2. Conduct inspections of buildings, structures and uses of land to determine compliance with the provisions of these regulations.
3. Maintain a set of administrative forms to assist applicants and to process the cases considered by the Planning Commission, Board of Zoning Appeals and Governing Body.
4. Receive, file and forward to the Planning Commission the applications and records for all amendments and special uses which are initially filed with the Zoning Administrator.
5. Receive, file and forward to the Board of Zoning Appeals the applications and records for all variances and conditional uses which are initially filed with the Zoning Administrator and forward all records of appeals to the Chairperson of the Board.
6. Maintain permanent and current public records of the zoning regulations, including but not limited to all official zoning maps, amendments, special uses, appeals, variances, conditional uses and applications thereof and records of hearing thereon.
7. Provide such technical and clerical assistance as may be required by the Planning Commission, the Board of Zoning Appeals, the Governing Body and other agencies and officials in the exercise of their duties relating to these regulations.
8. Maintain for distribution to the public a supply of the current zoning regulations, zoning map(s) and any rules of the Planning Commission and the Board of Zoning Appeals. A fee may be charged to defray the cost of printing and distribution.
9. Maintain the official copy of the zoning map(s) showing the district boundaries. Such map(s) shall be marked "Official copy of zoning district map(s) incorporated into zoning regulations by adoption of Ordinance No. 601 by the Governing Body of the City of Cunningham on the 29th day of March, 2010" and shall be open to inspection and available to the public at all reasonable business hours. Each map shall be signed by the

Mayor and attested to by the Clerk. The effective date shall be noted on the map and periodic changes indicated by a revision date.

B. Duties of the Clerk. The Clerk shall maintain certain official records and carry out certain responsibilities in the administration of these regulations as follows:

1. That not less than three copies of these model regulations shall be marked by the Clerk as "Official Copy as Incorporated by Ordinance No. 601", (i.e., the ordinance approved by the Governing Body) and all sections or portions thereof intended to be omitted clearly marked to show any such omissions or showing the sections, articles, chapters, parts or portions that are incorporated and to which shall be appended a copy of the incorporating ordinance. Such copies maintained by the Clerk shall be open to inspection and available to the public at all reasonable business hours.
2. That the Clerk supply official copies of these regulations similarly marked as described in Section 9-100B1 to the applicable police department, court, Zoning Administrator, City Attorney and all administrative departments of the City charged with the enforcement of these regulations. Subsequent amendments to these regulations shall be appended to such copies.
3. That such clerical assistance be provided by the Clerk to the Governing Body as to facilitate and record the actions of the Governing Body in the exercise of their duties relating to these regulations.

101 Zoning Permits and Occupancy Certificates.*

A. Zoning Permits.

1. Unless a zoning permit shall first have been obtained from the Zoning Administrator, the construction, reconstruction, moving or structural alteration of any building or structure or the improvement of land prior to its use or the use of any land or structure being changed to any other use, shall not be commenced. For permits required on accessory uses, temporary uses, home occupations, plans for parking and loading space and signs, see Articles 5, 6 and 7. Such permits shall not be issued by any other official, employee, department, board or agency of the City, except as provided for as a temporary permit in Section 6-101. Any zoning permit issued in conflict with the provisions of these regulations shall be null and void. (See Section 8-103H for Change in Use.)

* The City may issue zoning permits and occupancy certificates concurrently with the process of issuing building and occupancy permits under any applicable City building codes.

2. Except for a continuation of an existing use or occupancy, accessory structures or uses, or additions to existing structures or uses, permits must also meet the requirements of the City Subdivision Regulations and, thus, shall not be issued on land which is not shown on a recorded plat or replat, or a lot split or exempted from the platting requirements. If platting or replatting is not required, all of the public improvements necessary to carry out the requested permit nevertheless may be required, including dedications in lieu of platting for easements and to widen rights of way.
3. No principal or accessory building or structure or use, or portion thereof, shall be permitted to locate on or project over any platted or recorded public easement or over any known utility installation, unless (1) as a sign permitted by Section 7-102K or (2) as an accessory structure or use which is moveable, relocatable or poses no significant problem to the maintenance of existing public improvement installations or to such future installations. Ground level extensions such as concrete slabs or other permanent-type materials are not permitted in or on a public easement except as extensions of parking spaces or driveways for which a zoning permit has been or is being issued. In any event, when such structures or uses are permitted to be located on or project over such easements, the property owner assumes the risk and liability for any reconstruction or replacement necessary including fences if any maintenance or other improvements are required by a governmental agency or a utility provider.
4. A zoning permit is not initially required for grading and/or excavating a proposed construction site, unless the site is located in a designated floodplain and would result in an increase in flood levels. (See County floodplain regulations requirements in the extraterritorial jurisdiction.)
5. Application. Every application for a zoning permit shall be accompanied by the following:
 - a. A drawing or copy of the recorded plat, in duplicate, of the piece or parcel of land, lot(s), block(s), parts or portions thereof, drawn to scale showing the actual dimensions of the zoning lot(s), including any easements thereon.
 - b. A drawing, in duplicate, drawn to scale and in such form as may, from time to time, be prescribed by the Zoning Administrator, showing the location, ground area, height and bulk of (1) all present and proposed structures, (2) drives, parking spaces and loading areas, (3) building setback lines in relation to lot lines, (4) waste disposal areas, (5) use to be made of such present and proposed structures on the land, and (6) such other information as may be required for the proper enforcement of these regulations.

One copy of such drawings shall be retained by the Zoning Administrator as a public record.

6. Issuance. A zoning permit shall be either issued or disapproved by the Zoning Administrator within 10 days after the receipt of an application thereof or within such further period as may be agreed to by the applicant. When the Zoning Administrator refuses to issue a zoning permit, he shall advise the applicant in writing of the reasons for the disapproval.
 7. Period of Validity. A zoning permit shall become null and void 180 days after the date on which it is issued, unless within said period construction, reconstruction, moving or structural alteration of a structure is commenced or a use is commenced. If the construction or work is abandoned or suspended for any 180-day period after such a permit is issued, then application must be made to the Zoning Administrator for an extension of time to continue the project. The Zoning Administrator may grant reasonable extensions of time provided no changes have been made in any applicable regulations. If such changes have occurred, application must be made for a new permit based on the provisions of the new or amended regulations in order to continue the project, unless Section 2-100G applies pertaining to vesting of single-family residential developments. (See Section 2-100F for Effect of Existing Permits.)
- B. Occupancy Certificates. No structure or addition thereto constructed, reconstructed, moved or altered after the effective date of these regulations shall be occupied or used for any purpose; and no land vacant on the effective date of these regulations shall be used for any purpose; and no use of any land or structure shall be changed to any other use, unless an occupancy certificate shall first have been obtained from the Zoning Administrator certifying that the proposed use or occupancy complies with all the provisions of these regulations. (See Section 8-103H for Change in Use.)
1. Application. Every application for a zoning permit shall be deemed to be an application for an occupancy certificate. Every occupancy certificate shall be in such form and contain such information as the Administrator shall provide by general rule.
 2. Issuance.
 - a. No occupancy certificate for a structure or addition thereto constructed, reconstructed, moved or structurally altered or for the new or changed use of any structure or land shall be issued after the effective date of these regulations until such work has been completed and the premises inspected and certified by the Zoning Administrator to be in full and complete compliance with the plans and specifications upon which the zoning permit was issued including the requirements for utilities, streets and other public improvements in the City Subdivision Regulations which must either be installed or guaranteed. Direct access must be available from the frontage of each zoning lot to an opened public street or otherwise the

improvement of the street must be guaranteed by such methods as stated in the Subdivision Regulations.

- b. An occupancy certificate shall be issued or written notice shall be given to the applicant stating the reasons why a certificate cannot be issued within 10 days after the Zoning Administrator is notified that the structures or premises are ready for occupancy or use. Pending the issuance of a permanent occupancy certificate, a temporary occupancy certificate may be issued to be valid for a period not to exceed six months from its date pending the completion of any addition or improvement(s) or during partial occupancy of the premises; provided, satisfactory guarantees are submitted including the possible use of performance bonds or escrow accounts.

- C. Agricultural Compliance Certificate. Completion of an agricultural compliance certificate may be requested by the Zoning Administrator when such information is needed to determine the agricultural exemption status described in Section 2-102. No fees shall apply to obtaining this certificate from the Zoning Administrator.

102 Enforcement and Liability.

- A. It shall be the duty of the Zoning Administrator or any deputies working under his or her direction to enforce the provisions of these regulations in consultation with the City Attorney in the following manner:
 1. To refuse to issue any zoning permit or occupancy certificate for any building or structure or use of any premises which would violate any of the provisions herein.
 2. To revoke a zoning permit and issue a stop order at any time for a building or structure or use for which the same was issued when it shall appear (1) that there is a departure from the plans, specifications or conditions as required under terms of the permit; (2) that the same was procured by false representation; (3) that it was issued by mistake, or (4) that it violates any provisions of the zoning regulations.
 3. To cause any building, structure, place or premises to be inspected and examined as required by these regulations and to order in writing the remedying of any condition found to exist therein or threat in violation of any provisions herein.
 4. To institute any appropriate action or proceedings to prevent such unlawful action or use or to restrain, correct or abate such violation on or about the premises of any building or structure which is constructed, built, moved, structurally altered or reconstructed or land is used in violation of any provisions herein.

- B. The Zoning Administrator or designee charged with the enforcement of these regulations, acting in good faith and without malice in the discharge of the duties described herein, shall not be personally liable for any damage that may accrue to persons or property as a result of any act or by reason of an act or omission in the discharge of such duties. A suit brought against the Administrator because of an act or omission performed by the Administrator in the enforcement of any provision of these regulations or other pertinent laws or ordinances implemented through the enforcement of these regulations shall be defended by the City until final termination of such proceedings, and any judgment resulting therefrom shall be assumed by the City. (See K.S.A. 75-6101 et seq. in general and K.S.A. 75-6109 specifically.)

103 Violations.

- A. Penalties. Pursuant to K.S.A. 12-761, as amended, any violations of these regulations shall be deemed to be a misdemeanor. The owner or agent of a building, structure or premises in or upon which a violation of any provision of these regulations has been committed or shall exist or the lessee or tenant of an entire building or entire premises in or upon which a violation has been committed or shall exist; or the agent, architect, building contractor or any other person who commits, takes part or assists in any violation or who maintains any building, structure or premises in or upon which a violation has been committed or shall exist, shall be punished by a fine not to exceed \$500 or by imprisonment for not more than six months for each offense or by both such fine and imprisonment. Each day's violation shall constitute a separate offense.
- B. Remedies. In case any building or structure is erected, constructed, reconstructed, structurally altered, converted or maintained; or any building, structure or land is used or is proposed to be used in violation of these regulations, the appropriate authorities of the City of Cunningham, in addition to using other remedies, may institute injunction, mandamus or other appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance or to correct or abate such violation, or to prevent the occupancy of such building, structure or land. In addition to the City, any person, the value or use of whose property is or may be affected by such violation, shall have the authority to maintain suits or actions in any court of competent jurisdiction to enforce these regulations and to abate nuisances in violation thereof.

- 104 Fees. For purposes of wholly or partially defraying the costs of the administrative and enforcement provisions described in these regulations, including publication costs, the applicant upon filing an application for an amendment, special use, appeal, conditional use, variance or a zoning permit including occupancy certificate, shall pay the Clerk a fee according to the fee schedule approved by the Governing Body. No part of such fee shall thereafter be refunded except for a zoning permit which is not approved.
- 105 Reports. The Zoning Administrator shall periodically report verbally or in writing to the Governing Body and the Planning Commission a summary of all zoning permits issued during the preceding period, giving details of any permitted variations, as well as the current status of all applications in process for amendments, special uses, appeals, conditional uses and variances. Such a report shall include comments on any problems encountered in the administration or enforcement of these regulations which may especially be of use at the annual review established by Section 11-105.