

## ORDINANCE NO. 2701NS

AN ORDINANCE RELATING TO THE COMPREHENSIVE PLAN, AMENDING CHAPTER 22 OF THE SHAWNEE MUNICIPAL CODE BY CREATING A NEW ARTICLE VIII OF CHAPTER 22, PROVIDING FOR THE CREATION AND ADOPTION OF THE COMPREHENSIVE PLAN; PROVIDING FOR REPEAL; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR EMERGENCY CLAUSE.

**BE IT ORDAINED BY THE COMMISSIONERS OF THE CITY OF SHAWNEE:**

**SECTION 1.** That Article VIII of Chapter 22 of the Shawnee Municipal Code is hereby created to read as follows:

### CHAPTER 22 PLANNING AND DEVELOPMENT

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#### ARTICLE VIII. COMPREHENSIVE PLAN

**§22-724. Purpose of Comprehensive Plan.** The Comprehensive Plan shall be made with the general purpose of guiding and accomplishing a coordinated, adjusted and harmonious development of the City and its environs which will, in accordance with present and future needs, best promote public health, safety, comfort, convenience, order and general welfare, as well as efficiency and economy in the process of development. The plan shall include, among other things, adequate provisions for traffic, the promotion of safety from fire and other dangers, adequate provisions of light and air, the promotion of healthful and convenient distribution of population, and promotion of good civic design and arrangement, and wise and efficient expenditure of public funds.

**§22-725. Preparation of Comprehensive Plan.** In the preparation of the Comprehensive Plan, the Planning Commission shall make careful and comprehensive surveys and studies of present conditions and future growth of the City, and with due regard to its relationship to neighboring territory.

**§22-726. Contents of Comprehensive Plan.** The Comprehensive Plan, with the accompanying maps, plats, charts and descriptive matter, shall show the Planning Commission's recommendations for the development of the territory including, among other things, the general location, character and extent of streets, viaducts, subways, bridges, waterways, waterfronts, boulevards, parkways, playgrounds, squares, parks, aviation fields, and other public ways, grounds and open spaces, and the general location of public property, also the removal, relocation, widening, narrowing, vacating, abandonment, change of use or extension of any of the foregoing ways, grounds, open spaces, buildings or property, as well as a zoning plan for the control of the height, area, bulk, location and use of buildings and premises.

**§22-727. Adoption of Comprehensive Plan.**

- (1) *Authority to Adopt.* The City Commission shall have the authority to adopt or reject the Comprehensive Plan. The Planning Commission shall present a recommendation regarding the adoption of the Comprehensive Plan.
- (2) *Adopting Plan Entirely or in Parts.* The City Commission may adopt the Comprehensive Plan as a whole by a single resolution or may use successive resolutions to adopt successive parts of the Plan. The parts may correspond with major geographic sections or divisions of the City, or with functional subdivisions of the subject matter of the Plan. The City Commission may, from time to time, adopt any amendment, extension or addition thereto.
- (3) *Public Hearing and Notice.* Before the adoption of the Comprehensive Plan, or any amendment, extension or addition, the Planning Commission shall hold at least one public hearing. Notice of the date, time and place of the hearing shall be published at

least 15 days prior to same in one publication in a newspaper of general circulation in the City. An attested copy of such plan, or parts thereof, shall be certified to the City Commissioners. Subsequently, the City Commission shall hold at least one public hearing that adheres to the requirements laid out above.

- (4) *Majority Vote to Adopt.* By the affirmative votes of a majority, the City Commission shall adopt by resolution the Comprehensive Plan, or of any part thereof, extension or addition.
- (5) *Recordation and Attestation of Resolution.* The resolution shall refer expressly to the maps and narrative and other matter intended by the City Commission to form the whole part of the Comprehensive Plan. The action of the City Commission shall be recorded on the map and plan narrative by the identifying signature of the Mayor. The City Commission shall give a certified copy of the Plan to the Planning Commission.

## **§22-728. Amendment of Comprehensive Plan.**

- (1) *Levels of Plan review.* The comprehensive plan should be reviewed and reassessed regularly in order to evaluate its effectiveness and adequacy in guiding the growth of the city and to determine whether or not the plan continues to meet the long-term planning needs of the city. Because this review need not necessarily result in the complete revision of the plan, several levels of review are contemplated in this section.
  - a. Complete plan revision (15-year intervals). The Planning Commission shall initiate a full review and complete revision of the comprehensive plan at least once every 15 years, preferably following the decennial census. As part of this review, the City Planner shall provide the Planning Commission with an overall assessment of the adequacy and effectiveness of the existing plan, including identification of new issues not adequately addressed, issues which require further study and investigation, and suggested improvements. The Planning Commission shall consider the staff assessment and shall recommend amendments or issues that the commission feels should be pursued or investigated. Any amendments shall follow the procedures of subsection 2 below.
  - b. Targeted plan review (five-year intervals). The City Planner shall initiate a targeted review of the plan at least once every five years, or at the time of an area-wide rezoning, in order to make it consistent with economic and demographic trends, recent and proposed land use decisions, and adopted studies and plans. Any amendments shall follow the procedures of subsection 2 below.
  - c. Annual citizen proposed amendments review. The City Planner shall schedule an annual review to address all citizen applications to amend the Comprehensive Plan. Said review shall occur at the January meeting of the Planning Commission. Citizen proposals to change the comprehensive plan shall be heard in conformance with adopted plan policy. All such proposals shall be processed in accordance with the procedures in subsection 2 below.
  - d. Quarterly citizen proposed amendments review. The City Planner may schedule quarterly reviews to address all citizen applications to amend the Comprehensive Plan. Said reviews may occur if citizen applications are received and a more expedient review requested. The dates of said reviews shall be determined annually at or before the January meeting of the Planning Commission and the schedule appended to the application to amend the Comprehensive Plan. Citizen proposals to change the Comprehensive Plan shall be heard in conformance with adopted plan policy. All such proposals shall be processed in accordance with the procedures in subsection 2 below.
- (2) The following procedures govern the process for a citizen's application to amend the Comprehensive Plan.
  - a. *Step 1: Pre-application conference.*

1. The purpose of a pre-application conference is to provide an opportunity for an informal evaluation of the applicant's proposal and to familiarize the applicant and the city staff with the applicable provisions of this Ordinance, the Comprehensive Plan, infrastructure requirements, and any other issues that may affect the applicant's proposal.
2. Applications to amend the Comprehensive Plan shall not be accepted until after the pre-application conference is completed. The conference should take place prior to any substantial investment, such as land acquisition for a proposed development, site and engineering design, or the preparation of other data.
3. Initiation of pre-application conference. The potential applicant shall request a pre-application conference with the City Planner. With the request for a pre-application conference, the applicant shall provide to the City Planner a description of the character, location, and magnitude of the proposed development and any other available supporting materials, such as maps, drawings, models, and the type of application. It is the applicant's responsibility to provide sufficiently detailed plans and descriptions of the proposal for staff to make the informal recommendations discussed below. The materials should be submitted at least five business days before the conference.
4. Pre-application conference content. The City Planner shall schedule a pre-application conference after receipt of a proper request. At the conference, the applicant, the City Planner or designee, and any other persons the City Planner deems appropriate to attend shall discuss the proposed development. Based upon the information provided by the applicant and the provisions of this Ordinance, the parties should discuss in general the proposed development and the applicable requirements and standards of this Ordinance.
5. Record of pre-application conference. The applicant shall be responsible for recording a summary of topics discussed at the pre-application conference. The record shall be submitted as part of the formal application.
6. Informal evaluation not binding. The informal evaluations of the City Planner and staff provided at the conference are not binding upon the applicant or the city, but are intended to serve as a guide to the applicant in making the application and advising the applicant in advance of the formal application of issues that may be presented to the appropriate decision-making body.
7. Waiver. The City Planner may waive the pre-application conference requirement for applications where he or she finds that the projected size, complexity, anticipated impacts, or other factors associated with the proposed development clearly, in his or her opinion, support such waiver.
8. Application required within six months. After a pre-application conference has been completed, an application must be completed within six months or sooner if required by the City Planner due to changing conditions. If an application is not filed within such timeframe, a new pre-application conference shall be required prior to filing an application.

b. *Step 2: Development application submittal.*

1. Form of application. Applications required under this chapter shall be submitted in a form and in such number as required by the City Planner.
2. Authority to file applications.

- a. Unless otherwise specified in this Ordinance, applications for review and approval may be initiated by:
      - i. The owner of the property that is the subject of the application;
      - ii. Any person authorized by the owner; or
      - iii. The Planning Commission or the City Commission.
    - b. When an authorized person files an application under this Ordinance, written documentation of the authority shall be submitted with the application.
  3. Development review fees.
    - a. Recovery of costs. Development review fees are established to recover the costs incurred by the city in processing, reviewing, and recording applications pertaining to development applications or activity within the city's boundaries. The applicable development review fees shall be paid at the time of submittal of any development application.
    - b. Development review fee schedule. The amount of the city's development review fees shall be established by the City Commission. The schedule of fees shall be reviewed annually and shall be adjusted, if necessary, by the city manager on the basis of actual expenses incurred by the city.
  5. Waivers. The City Planner may waive certain submittal requirements in order to reduce the burden on the applicant and to tailor the requirements to the information necessary to review a particular application. The City Planner may waive such requirements where he or she finds that the projected size, complexity, anticipated impacts, or other factors associated with the proposed development clearly, in his or her opinion, support such waiver.
  6. Additional information. Additional application-specific information may be required by the City Planner, Planning Commission, and/or City Commission, as necessary and appropriate to evaluate fully whether an application complies with the requirements of this Ordinance.
  7. Inactive files. If an applicant fails to submit required information or request a hearing date for a period of more than six months, his or her file shall become void and the resubmittal of a new application and fees shall be required. The City Planner may grant no more than two extensions of time to this provision, of no more than six months each, upon a written request by the applicant.
- c. *Step 3: Determination of application completeness.* After receipt of the development application, the City Planner shall determine whether the application is complete and ready for review.
1. If the application is determined to be complete, the application shall then be processed according to the procedures set forth in this Ordinance. An application will be considered complete if it is submitted in the required form, includes all mandatory information and supporting materials therein, and is accompanied by the applicable fee. A pre-application conference shall have been held. The determination of completeness shall not be based upon the perceived merits of the application.
  2. If an application is determined to be incomplete, the City Planner shall provide written notice to the applicant along with an explanation of the application's deficiencies. No further processing of an incomplete

application shall occur until the deficiencies are corrected in a future resubmittal.

3. If any false or misleading information is submitted or supplied by an applicant on an application, that application will be deemed incomplete.

d. *Step 4: Notice.*

1. Content of notices. Notice of all public hearings required under this chapter shall, unless otherwise specified in this Ordinance:
  - a. Identify the date, time, and place of the public hearing;
  - b. If applicable, describe the property involved in the application by street address and/or by legal description and nearest cross street;
  - c. Describe the nature, scope, and purpose of the proposed action;
  - d. Indicate that interested parties may appear at the hearing and speak on the matter; and
  - e. Indicate where additional information on the matter may be obtained.
2. Mailed notice. The applicant shall provide the director with a current list of applicable property owners and organizations as listed below, prepared and certified by a title insurance company or abstract company licensed by the State of Oklahoma, along with addressed adhesive envelope labels for each owner. The director shall deposit such notice into first class mail at least 20 days prior to the scheduled date of the hearing. In computing such period, the day of mailing shall not be counted, but the day of the hearing shall be counted. Written notice shall be provided to the following persons or groups:
  - a. Property owners. All persons listed on the records of the county assessor as owners of land subject to the application or as owners of the parcels within 300 feet of the outer boundary of the land subject to the application.
  - b. Notice to property owners for the following land uses: Within rezoning categories R-A, RM, including planned unit developments and specific user permits for such uses. All persons or corporations listed on the records of the county assessor as owners of land subject to the application or as owners of parcels within one-quarter mile, or 1,320 feet, of the outer boundary of the land subject to the application.
3. Published notice. The director shall publish notice in a newspaper of general circulation in the area. The notice shall be published at least 20 days before and within 30 days of the scheduled hearing date. In computing such period, the day of posting shall not be counted, but the day of the hearing shall be counted.
4. Posted notice. Posted notice shall be provided in the following manner: There shall be posting of at least one sign on the lot, parcel, or tract of land, and such sign shall remain on the property for a period of at least ten days prior to the public hearing. The sign shall be posted in a prominent place, clearly visible from a major artery if the property abuts such an artery, or clearly visible from a collector street if the property abuts a collector street or clearly visible to the most heavily traveled street or public way if

the property does not abut an arterial or collector street. In particular, a tract of land abutting an arterial street and that also abuts a residential subdivision having stubbed streets that cannot be served by the same arterial street serving the tract being rezoned, shall post at least one (1) additional sign clearly visible from at least one (1) street in the residential subdivision which is stubbed to the tract for which the rezoning is being requested.

5. Constructive notice.

- a. Minor defects in any notice shall not impair the notice or invalidate proceedings pursuant to the notice if a bona fide attempt has been made to comply with applicable notice requirements. Minor defects in notice shall be limited to errors in a legal description or typographical or grammatical errors that do not impede communication of the notice to affected parties. If questions arise at the hearing regarding the adequacy of notice, the decision-making body shall make a formal finding as to whether there was substantial compliance with the notice requirements of this Ordinance. Failure of a party to receive written notice wherein delivery was attempted shall not invalidate subsequent action.
- b. When the records of the city document the publication, mailing, and posting of notices as required by this section, it shall be presumed that notice of a public hearing was given as required by this section.
- e. *Step 5: Staff report.* Within a reasonable time after determining that a development application is complete, the City Planner shall refer the development application to the appropriate review agencies, review the development application, and prepare a staff report. The staff report shall be made available for inspection and copying by the applicant and the public prior to the scheduled public hearing for the development application. The staff report shall indicate whether, in the opinion of the staff, the development application complies with all applicable standards of this Ordinance. Conditions for approval may also be recommended to eliminate any areas of noncompliance or mitigate any adverse effects of the development proposal.
- f. *Step 6: Public hearing.* A public hearing, if required under this Ordinance, shall be conducted in accordance with the rules adopted by the City of Shawnee. There shall be a public hearing before the Planning Commission and a subsequent public hearing before the City Commissioners.
- g. *Step 7: Decision and findings.*
  1. Decision. After consideration of the development application, the staff report, comments received from other reviewers (if applicable), and the evidence from the public hearing (if applicable), the City Commission shall approve, approve with conditions, or deny the application based on its compliance with the applicable approval criteria, as described in Step 9 below. Written notification of the decision shall be provided by the City Planner to the applicant within ten days after the decision.
  2. Findings. All decisions shall include at the least the following elements:
    - a. A clear statement of approval, approval with conditions, or denial, whichever is appropriate; and
    - b. A clear statement of the basis upon which the decision was made, including specific, written findings of fact with reference to the relevant standards of this Ordinance.

3. Effect of inaction on applications. When a review or decision-making body fails to take action on an application within a reasonable amount of time, such inaction shall be deemed a denial of the application, unless the decision-making body agrees to an extension of the time frame in writing.
4. Review and recommendation by planning commission. The planning commission shall hold a public hearing on the proposed plan amendment and, based on the approval criteria in Step 8 below, vote to recommend that the City Commissioners approve, approve with modifications, or deny the plan amendment. The director shall forward the Planning Commission's recommendation to the City Commission.
5. Action by City Commissioners. The City Commissioners shall hold a public hearing on the proposed plan amendment and within 90 days of the conclusion of the Planning Commission hearing, based upon the recommendations of the director and planning commission, approve or deny the amendment, or refer the application back to the planning commission or to a committee of the City Commissioner for further consideration. To approve an amendment to Comprehensive Plan requires a simple majority vote of the City Commission.
6. Record of proceedings.
  - a. Recording of public hearing. The Planning Commission and City Commission shall record the public hearing by any appropriate means. A copy of the public hearing record may be acquired by any person upon application to the City Planner or City Clerk, and payment of a fee to cover the cost of duplication of the record.
  - b. The record. The record shall consist of the following:
    - i. All exhibits including, without limitation, all writings, drawings, maps, charts, graphs, photographs and other tangible items received or viewed by the decision maker at the proceedings.
    - ii. All minutes of the proceedings.
    - iii. If appealed, a verbatim transcript of the proceedings before the decision maker. The cost of the transcript shall be borne by the applicant.
    - iv. If available, a videotape recording of the proceedings before the decision maker.
7. Recording of decisions. Once approved, and after the appeal period has expired, the decision of the decision maker shall be filed with the city clerk.
- h. *Step 8: Approval criteria.* There are no approval criteria. Instead, proposals for amendments to the comprehensive plan shall be evaluated based upon whether the amendment is necessary in order to address the following:
  1. A change in projections or assumptions from those on which the comprehensive plan is based;
  2. Identification of new issues, needs, or opportunities that are not adequately addressed in the comprehensive plan;
  3. A change in the policies, objectives, principles, or standards governing the physical development of the city; or
  4. Identification of errors or omissions in the comprehensive plan.

- i. *Step 9: Conditions of approval.* The decision-maker may impose such conditions on the approval of the application as may be necessary to reduce or minimize any potential adverse impact upon other property in the area, or to carry out the general purpose and intent of the comprehensive plan and this Ordinance. In such cases, any conditions attached to approvals shall be directly related to the impacts of the proposed use or development and shall be roughly proportional in both nature and extent to the anticipated impacts of the proposed use or development. No conditions of approval, except for those attached to variance or minor modification approvals, shall be less restrictive than the requirements of this Ordinance.

**§22-729. Promoting Public Interest and Understanding of the Comprehensive Plan.** The Planning Commission shall have power to promote public interest in and understanding of the Comprehensive Plan, and to that end may publish and distribute copies of the Plan or any report, and may employ any other means of publicity and education as it may determine.

**SECTION 2: REPEALER.** All sections, subsections, clauses, and sentences of existing law in conflict with this ordinance are repealed.

**SECTION 3: CODIFICATION.** This Ordinance shall be codified in the Shawnee Municipal Code, and the codifier is authorized to set out the ordinance as appropriate.

**SECTION 4: SEVERABILITY.** The provisions of this ordinance are severable and, if any sentence, provision, or other part of this Ordinance shall be held invalid, the decision of the court so holding shall not affect or impair any of the remaining parts or provisions of this ordinance.

**SECTION 5: EMERGENCY.** It being immediately necessary for the preservation of the peace, health, safety and public good of the City of Shawnee, Oklahoma and the inhabitants thereof that the provisions of this Ordinance be put into full force and effect, an emergency is hereby declared to exist, by reason whereof, this ordinance shall take effect and be in full force and effect after its passage, as provided by law.

PASSED AND APPROVED this \_\_\_\_ day of \_\_\_\_\_, 2020

\_\_\_\_\_  
ED BOLT, MAYOR

ATTEST:

(SEAL)

\_\_\_\_\_  
LISA LASYONE, CMC, CITY CLERK

Emergency clause separately passed and approved on this \_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
ED BOLT, MAYOR

ATTEST:

(SEAL)

\_\_\_\_\_  
LISA LASYONE, CMC, CITY CLERK

Approved as to form and legality this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

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JOSEPH M. VORNDRAN  
CITY ATTORNEY