

**APPENDIX 1.**  
**KANSAS STATUTES ANNOTATED 19-2956 et seq.**  
**PLANNING AND ZONING IN COUNTIES**  
**DESIGNATED AS URBAN AREAS**

**19-2956. Planning and zoning in urban areas; purpose.** The purpose of this act is to authorize any county designated as an urban area under the provisions of K.S.A. 19-2654, and amendments thereto, to prepare and adopt plans and land use regulations with multiple advisory bodies so as to bring unity, consistency and efficiency to the county's planning efforts. Such plans and regulations shall be designed, in accordance with the present and future needs of the county and shall promote the public health, safety, morals, comfort, convenience, prosperity and general welfare and protect the land, air, water, natural resources and environment and encourage their use in a desirable manner and insure efficient expenditure of public funds and conserve and protect the values of property under the jurisdiction of the county.

**History:** L. 1984, ch. 96, § 1; May 3.

**19-2957. Same; zoning boards for townships and county planning commission; consolidated zoning boards; establishment; membership; meetings; powers.** (a) The board of county commissioners, by resolution, may establish a zoning board for each township within the county. The board shall consist of (1) four members who shall be appointed by the board of county commissioners and who shall be residents of the unincorporated area of the county and (2) the township trustee of each township in the county if the trustee gives written consent to serve on the zoning board. If the trustee fails to give consent to serve on the zoning board, the board of county commissioners shall appoint a resident of such township to serve in the trustee's place. Any person appointed to serve in a trustee's place shall hold the position on the zoning board as long as such trustee serves on the township board.

The board of county commissioners, by resolution, may establish a planning commission for the county and shall fix the number of members on the commission. The commission shall consist of not less than nine nor more than 12 members who shall be appointed by the board of county commissioners. Nine of such members shall be residents of the unincorporated area of the county. The planning commission shall consist of one member of each zoning board in the county, as appointed by the board of county commissioners.

The members first appointed by the board of county commissioners to either a zoning board or the planning commission shall be appointed for terms of one, two and three years. The terms shall be divided equally or as nearly equally as possible among the members. Thereafter members shall be appointed for terms of three years each. All members shall serve until their successors are appointed and qualified. Vacancies shall be filled by appointment by the board of county commissioners for the unexpired term. Members shall serve without compensation for their services but may receive such traveling expenses as the board of county commissioners authorizes which shall be paid from any funds available for such purpose.

(b) Each zoning board and the planning commission shall meet at such time and place as they may fix by resolution, with the approval of the board of county commissioners. They shall select one of their number as chairperson and one as vice-chairperson who shall serve one year terms and until their successor has been selected. The board of county commissioners shall employ a secretary for the planning commission and each zoning board. The secretary shall keep a proper record of the proceedings of any such board or commission. Special meetings may be called at any time by the chairperson or in the chairperson's absence by the vice-chairperson. A majority of any such board or commission shall constitute a quorum for the transaction of business. Each zoning board and the planning commission shall cause a proper record to be kept of its proceedings.

Each zoning board and the planning commission shall make and adopt, with the approval of the board of county commissioners, rules for the transaction of its business.

The board of county commissioners may employ any employees it deems necessary for the work of any zoning board or the planning commission and may contract with planners and other consultants for such services as it requires and may incur other necessary expenses. The expenditures of county funds for the payment of costs and expenses of the zoning boards and the planning commission shall at no time be in excess of the amounts budgeted and appropriated for that purpose by the board of county commissioners.

Each zoning board and the planning commission shall perform any additional duties that the board of county commissioners prescribes and, in all cases, shall be subject to the jurisdiction and under the control and approval of the board of county commissioners.

(c) The board of county commissioners, by resolution, may appoint one or more consolidated zoning boards for two or more townships, or portions thereof, within the county. Such resolution shall give notice of the date and time of a public hearing to be held on the proposed consolidation and shall be published once each week for two consecutive weeks in the official county newspaper. The second publication shall be no sooner than 10 days prior to the public hearing. Any consolidated boards shall consist of not less than five nor more than nine members who shall be residents of the townships, or portions thereof, included in the territory which is subject to the consolidated boards' jurisdiction. Membership in the board shall be determined by the board of county commissioners. The members first appointed by the board of county commissioners shall be appointed for terms of one, two and three years. The terms shall be divided equally or as nearly equally as possible among the members. Thereafter members shall be appointed for terms of three years each. All members shall serve until their successors are appointed and qualified. Vacancies shall be filled by appointment by the board of county commissioners for the unexpired term. Members shall serve without compensation for their services, but may receive such traveling expenses as the board of county commissioners authorizes which shall be paid from any funds available for such purpose.

Upon the appointment of any consolidated zoning boards, any separate board which was established for the purpose of recommending rezonings or conditional use permits for any territory included within the territory subject to the jurisdiction of such consolidated boards, shall be dissolved by order of the board of county commissioners. Zoning boards for townships not affected by a resolution creating a consolidated zoning board, or affected only in part by such a resolution, may continue operating as originally established, as determined by the board of county commissioners.

The consolidated zoning boards shall meet, select officers and keep records in the same manner as provided for township zoning boards created under subsection (a) of this section. Such boards shall have the same powers and duties as prescribed for township zoning boards insofar as the same may be made applicable and shall perform any additional duties which the board of county commissioners prescribes and, in all cases, shall be subject to the jurisdiction and under the control and approval of the board of county commissioners.

**History:** L. 1984, ch. 96, § 2, May 3.

**19-2958. Same; comprehensive plan; procedure to approve; notice; hearing; consideration by county commissioners; revision, amendment and annual review of plan, procedure.** (a) The planning commission, with the approval of the board of county commissioners, may make or cause to be made a comprehensive plan for coordinated development of the county in the manner, and for the purposes, provided by this act. In the preparation of such plan, the planning commission shall make or cause to be made comprehensive surveys and studies of past and present conditions and trends relating to land use, population and building intensity, public facilities, transportation and transportation facilities, economic conditions, natural resources, and may include any other element deemed necessary to the comprehensive plan. Such proposed plan, which in addition to a written presentation, may include maps, plats, charts and other descriptive matter, shall show the commission's recommendations for the development or redevelopment of the county and may include: (1) The general location, extent and relationship of the use of land for agriculture, residence, business, industry, recreation, education, public buildings and other community facilities, major utility facilities both public and private and any other use deemed necessary; (2) population and building intensity standards and restrictions and the application of the same; (3) public facilities including transportation facilities of all types, whether publicly or privately owned, which relate to the transportation of persons or goods; (4) public improvement programming based upon a determination of relative urgency; (5) the major sources and expenditure of public revenue including long range financial plans for the financing of public facilities and capital improvements, based upon a projection of the economic and fiscal activity of the county, both public and private; (6) utilization and conservation of natural resources; and (7) any other element deemed necessary for the proper development or redevelopment of the area.

(b) The planning commission, by an affirmative vote of a majority of all its members, may approve for recommendation the comprehensive plan as a whole by a single resolution, or may by successive resolutions approve parts of the plan, such parts corresponding with the major geographical sections of the county or with functional subdivisions of the plan. Such resolution shall specifically identify any maps, plats, charts or other materials made a part of such plan. Before the approval for recommendation of any such plan or part thereof, the planning commission shall hold a public hearing thereon, notice of which shall be published once in the official county newspaper at least 20 days prior to the date fixed for hearing. Such hearing may be adjourned from time to time. Upon the approval for recommendation of any such plan or part thereof, a certified copy of

the same shall be submitted to the board of county commissioners for its consideration and final approval. Upon request, copies of the proposed plan or part thereof, together with notice of the time and place when the board of county commissioners will consider adoption of the plan or part thereof, shall be provided to other interested legislative or administrative agencies for review and comment. Failure to receive such copies or other notice shall not invalidate any subsequent action taken on the plan or part thereof.

(c) The board of county commissioners shall consider such proposed comprehensive plan or part thereof as recommended by the planning commission. If the board of county commissioners approves such recommendation, it may adopt, by resolution, such proposed plan or part thereof. If the board of county commissioners disapproves, in whole or in part, the planning commission's recommendation, the board of county commissioners shall return such recommendation or part thereof to the planning commission for further consideration along with a written statement of reasons for disapproving the same or with suggested modifications. If the board of county commissioners returns the plan or part thereof as originally recommended to the planning commission for further consideration as disapproved or with suggested modifications, the planning commission shall reconsider such plan or part thereof as returned and, within 30 days of receipt thereof or such lesser or greater time period as determined by the board of county commissioners, either submit a new recommendation to the board of county commissioners or resubmit its original recommendation to the board of county commissioners. No additional public hearing shall be required unless the board of county commissioners directs that one be held. If the planning commission fails to deliver its recommendation to the board of county commissioners within such time period, the board of county commissioners shall consider such course of inaction on the part of the planning commission as a resubmission of its original recommendation. The board of county commissioners, after receipt of the new or original recommendation of the planning commission on the returned plan or part thereof, shall reconsider such matter and thereafter, by resolution, may adopt, in whole or in part, or may revise or amend and adopt such proposed plan or part thereof as the official plan of the county, or may take no further action thereon, as it deems appropriate.

(d) All reports and documents forming the comprehensive plan or parts thereof as adopted shall bear the signature, or facsimile thereof, of the chairperson of the board of county commissioners and an attested copy of the same shall be filed in such public office as may be designated by the board of county commissioners and shall be a public record. In addition, copies shall be provided to legislative and administrative agencies affected by the plan. Failure to receive such copy shall not invalidate any subsequent action taken. Such plan or part thereof shall constitute the basis or guide for public action to insure a coordinated and harmonious development or redevelopment which will best promote the health, safety, morals, order, convenience, prosperity and general welfare, as well as a wise and efficient expenditure of public funds.

(e) After adoption of a comprehensive plan or part thereof by the board of county commissioners, the planning commission annually shall review the plan for the purpose of determining if any portion of the plan has become obsolete and shall make a report to the board of county commissioners regarding the same on or before June 1 of each year. In addition, the planning commission or the board of county commissioners, at any time after the adoption of the plan or part thereof, may review or reconsider such plan or part thereof so adopted and may propose, by resolution, any amendments, extensions or additions to the same.

(f) When an amendment, extension or addition to the plan or part thereof has been proposed, whether as a result of the annual review or by resolution of the board of county commissioners or the planning commission, such proposed amendment, extension or addition shall first be submitted to the planning commission for recommendation. A public hearing shall be held thereon and an accurate written summary made of the proceedings. Notice of such public hearing shall be published in like manner as that required for the original recommendation on the plan, shall fix the time and place for such hearing and shall contain a statement describing, in general terms, the proposed amendment, extension or addition to the plan.

(g) A quorum of the planning commission is more than 1/2 of all its members. For action on amendments, a vote either for or against an amendment by a majority of the members of the commission present constitutes a recommendation of approval or disapproval of the commission, whereas a vote either for or against an amendment by less than a majority of the members of the commission present constitutes a "failure to recommend."

(h) The board of county commissioners shall consider such amendment, extension or addition as recommended by the planning commission and, regardless of whether the recommendation is for approval or disapproval, if the board of county commissioners approves such recommendation, it may adopt such recommendation, in whole or in part, by resolution, or may take no further action thereon, as it deems

appropriate. In the event the planning commission submits a "failure to recommend" to the board of county commissioners, the board of county commissioners may take such action it deems appropriate. Upon a recommendation of the planning commission which the board of county commissioners, in whole or in part, disapproves, the board of county commissioners shall return such recommendation or part thereof to the planning commission for further consideration along with a written statement of reasons for disapproving the same or with suggested modifications. If the board of county commissioners returns the proposed amendment, extension or addition or part thereof to the planning commission for further consideration as disapproved or with suggested modifications, the planning commission shall reconsider such amendment, extension or addition or part thereof as returned and, within 30 days of receipt thereof or such lesser or greater time period as determined by the board of county commissioners, either submit a new recommendation to the board of county commissioners or resubmit its original recommendation to the board of county commissioners. No additional public hearing shall be required unless the board of county commissioners directs that one be held. If the planning commission fails to deliver its recommendation to the board of county commissioners within such time period the board of county commissioners shall consider such course of inaction on the part of the planning commission as a resubmission of its original recommendation. The board of county commissioners, after receipt of the new or original recommendation of the planning commission on the returned amendment, extension or addition or part thereof, shall reconsider such matter and thereafter, by resolution, may adopt, in whole or in part, or may revise or amend and adopt such amendment, extension or addition, or may take no further action thereon, as it deems appropriate. If the board of county commissioners initiated such proposed amendment, extension or addition, the board of county commissioners need not return the same to the planning commission if it disapproves of the planning commission's recommendation but may take such action as it deems appropriate after receiving the planning commission's recommendation on the amendment, extension or addition.

**History:** L. 1984, ch. 96, § 3; May 3.

**19-2959. Same; intergovernmental planning agreements; approval of county commissioners.** In order to promote efficiency and coordination in the overall planning by the various governmental entities having an interest within the geographical territory embraced within the planning authorization granted to the county within this act, and to encourage the elimination of duplication of effort in planning for such areas, the board of county commissioners may initiate joint efforts with other governmental entities including, but not limited to, cities, townships, fire districts, water districts and wastewater districts and the planning commission, with approval of the board of county commissioners, is authorized to initiate and jointly prepare, in whole or in part, any plans or programs developed as a part of such joint or cooperative effort. Such plans or programs shall be considered for recommendation by the planning commission and adoption by the board of county commissioners in the same manner and with the same requirements as specified elsewhere in this act for adoption of the comprehensive plan.

The board of county commissioners shall approve any intergovernmental agreement or other formal document that shall outline the extent of common interest, the duration of the agreement, the role of the various parties involved, the desired results of such joint or cooperative effort and any other matter deemed pertinent by the parties involved. Such agreements may be made by the county and one or more other governmental entities as may choose to participate.

**History:** L. 1984, ch. 96, § 4; May 3.

**19-2960. Same; zoning regulations; zoning districts or classifications; notice; hearing; fees; amendments to regulations, rezoning or conditional uses, procedure; protest of rezoning or conditional use; existing uses; agricultural exemption; plans for streets and highways.** (a) The board of county commissioners, by resolution, may provide for the adoption or amendment of zoning regulations for the unincorporated portion of the county in the manner, and for the purposes, provided by this act. Such regulations may (1) restrict and regulate the height number of stories and size of buildings; (2) the percentage of lots that may be occupied; (3) the size of yards, courts and other open spaces; (4) the density of population, including minimum width, depth and area of lots; (5) the location and use of buildings, structures and land for industry, business, trade or residence; and (6) the use of land located in areas designated as floodplains. Such resolution shall define the boundaries of zoning classifications by description contained therein or by setting out such boundaries upon a map incorporated and published as a part of such resolution, or by providing for the incorporation by reference in such resolution of an official map upon which such boundaries shall be fixed.

Such map shall be marked "official copy incorporated by resolution of the board of county commissioners the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_," and filed in a public office designated by the board of county commissioners and shall be a public record.

(b) Before the board of county commissioners creates any zone, district or zoning classification or regulates or restricts the use of buildings or land in the unincorporated portion of the county, the board shall require the planning commission to recommend to the board of county commissioners the nature and number of zoning classifications which the planning commission deems necessary, the boundaries of the same and appropriate regulations or restrictions to be enforced therein. All such regulations shall be uniform for each class or kind of buildings or land uses throughout each zoning classification, but the regulations in one zoning classification may differ from those in other zoning classifications and the regulations may prescribe conditions under which conditional use permits may be issued providing exceptions to such uniform regulations. The issuance of any conditional use permit shall be considered a change or revision to the zoning map and shall be subject to the same notice, hearing and voting requirements prescribed herein for rezonings. The regulations shall be made in accordance with a land use plan and, in addition to the purposes provided in K.S.A. 1984 Supp. 19-2956, shall be designed to (1) lessen congestion in each district; (2) provide adequate light and air; (3) prevent the overcrowding of land; (4) avoid undue concentrations of population; and (5) to facilitate the adequate provisions of transportation, water, sewerage, schools, parks and other public requirements. Such regulations shall be made with reasonable consideration, among other things, to existing conditions, to the character of the district, its peculiar suitability for particular uses and with a view to conserving the values of buildings and encouraging the most appropriate use of land within the county.

The notice, hearing and voting procedures for adoption of the zoning regulations shall be the same as that required for adoption of the comprehensive plan as provided by K.S.A. 1984 Supp. 19-2958.

After adoption of the zoning resolution, the zoning regulations, the zoning classifications or the boundaries contained therein may from time to time be supplemented, changed or generally revised by amendment. The boundaries on the zoning map may from time to time be changed or revised by a rezoning or conditional use permit. A proposal for an amendment, rezoning or conditional use permit may be initiated by the board of county commissioners, the planning commission, any zoning board or upon application of the owner of property affected.

The board of county commissioners may establish reasonable fees to be paid in advance by the owner of any property at the time of making application for any amendment, rezoning or conditional use permit.

All such proposed amendments, rezonings or conditional use permits first shall be submitted to either the planning commission for recommendation regarding amendments or the appropriate zoning board for recommendation regarding rezonings or conditional use permits. All notice, hearing and voting procedures for consideration of proposed amendments, rezonings and conditional use permits shall be the same as that required for amendments, extensions or additions to the comprehensive plan as provided by K.S.A. 1984 Supp. 19-2958. Rezonings and conditional use permits shall be designated by legal description and general street location and, in addition to publication notice, written notice of such proposed rezoning or conditional use permit shall be mailed to all owners of record of lands located within 1,000 feet of the property affected by such rezoning or conditional use permit and an opportunity granted to interested parties to be heard, all as provided in the zoning regulations. Failure to receive such notice shall not invalidate any subsequent action taken.

On hearings concerning rezonings and conditional use permits, such notice is sufficient to permit the zoning board to make a recommendation which affects only a portion of the land described in the notice or which gives all or any part of the land described a zoning classification of lesser change than that set forth in the notice. Recommending a zoning classification of lesser change than that set forth in the notice shall not be valid without republication, remailing and a new public hearing unless the planning commission shall have previously established, with the approval of the board of county commissioners, a table or publication available to the public which designates what zoning classifications are lesser changes authorized within the adopted zoning resolution.

If such amendment, rezoning or conditional use permit affects the boundaries of any zoning classification, the resolution of the board of county commissioners shall describe the boundaries, as amended, or if the county has made provision for the fixing of the same upon an official map which has been incorporated by reference, the amending resolution shall define the change or the boundary, as amended, shall order the official map to be changed to reflect such amendment and shall reincorporate such map as amended.

Regardless whether a zoning board recommends to approve or disapprove a proposed rezoning or conditional use permit or "fails to recommend" if a protest against such rezoning or conditional use permit is filed in the office of the county clerk within 14 days after the date of the conclusion of the public hearing held pursuant to such publication notice, duly signed and acknowledged by the owners of 20% or more of any real property subject to the rezoning or conditional use permit or by the owners of 20% of the total area, except public streets and ways, located within 1,000 feet of the boundaries of the property subject to the rezoning or conditional use permit, the resolution adopting such rezoning or conditional use permit shall not be passed except by a favorable vote of at least 4/5 of all of the members of the board of county commissioners.

(c) Regulations adopted under authority of this act shall not apply to the existing use of any buildings or land and shall not prevent the restoration of a building damaged not more than 50% of its assessed valuation by fire, explosion, act of God, or the public enemy, or prevent the continuance of the use of such building or part thereof as such use existed at the time of such damage, but shall apply to any alteration, expansion or enlargement of a building or alteration of any land after the effective date of any such zoning resolution. No determination nor rule nor regulation shall be held to apply to the use of land for agricultural purposes, nor for the erection or maintenance of buildings thereon for such purposes so long as such land and buildings erected thereon are used for agricultural purposes and not otherwise.

No zoning regulations shall apply to the use of land for agricultural purposes nor for the erection or maintenance of agricultural buildings as long as such agricultural buildings are used for agricultural purposes and no other. Dwellings, garages and other similar accessory buildings shall not be considered as agricultural buildings. All buildings, including agricultural buildings, may be regulated as to setback requirements from public roads so as to protect the future use and improvement of such roads.

(d) Whenever the board of county commissioners has adopted, as a part of the comprehensive plan, a plan for its present or future street or highway system and such plan outlines the intentions of the county for improvements to existing streets or highways, for constructing new streets or highways or for establishing right-of-way needs for streets or highways, the board of county commissioners is hereby authorized, by resolution, to establish, further regulate and limit, and to change and amend, additional building or setback lines on such present or future streets or highways. The board of county commissioners is also authorized to prohibit any new building being located within such building or setback line outside the corporate limits of any city. The resolution may be adopted, and amended or changed, as a part of the zoning regulations.

**History:** L. 1984, ch. 96, § 5; May 3.

**19-2961. Same; regulations concerning subdivision of land in unincorporated area of county, procedure; reservation of land for open space or recreation; notice; hearing; amendment of regulations; fees; platting of subdivision, approval; building permits; naming and numbering streets.** (a) The board of county commissioners, after the adoption of a comprehensive plan, may provide for the adoption, or amendment, of regulations governing the subdivision of land located within the unincorporated portion of the county in the manner, and for the purposes, provided by this act. Such regulations may provide for the harmonious development of the county, including the proper location and width of streets, and for building lines, open spaces, safety and recreational facilities, flood protection and floodplain regulations and for the avoidance of congestion of population, including minimum width, depth and area of lots and compatibility of design. Such regulations also may provide for the reservation or dedication of land for open space for either public recreational use or for the future use of the owners or occupants of subdivisions in order to insure a reasonable balance of use or design and to avoid the overcrowding of land. Such reservation or dedication shall be determined by the geometric design of the streets, lots, blocks or other natural features of the subdivision but such reservation or dedication shall not exceed 10% of the tract being subdivided, exclusive of streets, alleys, easements or other public ways. No owner of a tract being subdivided shall be prevented from offering more than 10% of such tract for such reservation or dedication nor shall the board of county commissioners be prevented from accepting such offering.

The subdivision regulations, as a condition to the approval of any plat, also may require and fix the extent to which and the manner in which streets shall be improved and water, sewer, drainage and other utility mains and piping or connections or other physical improvements shall be installed. Such regulations may provide that in lieu of the completion of such work or improvements prior to the final approval of the plat, the board of county commissioners may accept a completion bond, cashier's check, escrow account or other like security in an amount to be fixed by the board of county commissioners and conditioned upon the actual completion of such work or improvements within a specified period, in accordance with such regulations, and the board of

county commissioners may enforce such bond, check or other like security by all equitable and legal remedies. In addition, the board of county commissioners may require a maintenance bond, cashier's check, escrow account or other like security in a reasonable amount to be in force for a period of one year following final county approval of such work or improvements.

(b) Before the board of county commissioners creates any regulations governing the subdivision of land located in the unincorporated portion of the county, the board shall require the planning commission to recommend to the board of county commissioners the regulations or restrictions.

The notice, hearing and voting procedures for adoption of the subdivision regulations shall be the same as that required for adoption of the comprehensive plan as provided by K.S.A. 1984 Supp. 19-2958.

After adoption of the subdivision resolution, the regulations, restrictions or requirements contained therein may from time to time be supplemented, changed or generally revised by amendment. A proposal for such amendment may be initiated by the board of county commissioners, the planning commission, any zoning board or upon application of the owner of property affected.

The board of county commissioners may establish reasonable fees to be paid in advance by the owner of any property at the time of making application for any amendment.

All such proposed amendments to the subdivision resolution shall first be submitted to the planning commission for recommendation. All notice, hearing and voting procedures for consideration of proposed amendments to the subdivision resolution shall be the same as that required for amendments, extensions or additions to the comprehensive plan as provided by K.S.A. 1984 Supp. 19-2958.

(c) Whenever any such regulations governing the subdivision of land under the provisions of this act are adopted, the owner or owners of any land located within the area governed by such regulations who: (1) subdivides the same into lots and blocks or tracts or parcels, for the purpose of laying out any subdivisions, suburban lots, building lots, tracts or parcels or (2) establishes any street, alley, park or public way intended to be dedicated for public use or for the use of purchasers or owners of lots, tracts or parcels of land fronting thereon or adjacent thereto, shall cause a plat to be made which shall accurately describe the subdivision, lots, tracts or parcels of land giving the location and dimensions thereof, or the location and dimensions of all streets, alleys, parks or other properties intended to be dedicated to public use or for the use of purchasers or owners of lots, tracts or parcels of land fronting thereon or adjacent thereto, and every such plat shall be duly acknowledged by the owner or owners thereof.

All such plats shall be submitted to the zoning board for that township in which such land is located for its consideration and, within 60 days thereafter, unless the regulations provide otherwise, its recommendation shall be submitted to the board of county commissioners for its official consideration and action. No such plat or replat or dedication of street, alley, park or public way shall be effective until filed with the register of deeds of such county as provided by law and no such plat, replat or dedication shall be filed with the register of deeds until such plat or replat or dedication shall have endorsed thereon the fact that it has been submitted to the zoning board and approved by the board of county commissioners, and that any land dedicated for public purposes has been accepted by the board of county commissioners.

The board of county commissioners may establish a scale of reasonable fees to be paid in advance to the secretary of the zoning board by the applicant for each plat filed with the zoning board.

No building authorization shall be granted for the construction of any structure upon any lot, tract or parcel of land located within the area governed by the subdivision regulations that has been subdivided, resubdivided or replatted after the date of the adoption of such regulations by the board of county commissioners but which has not been approved in the manner provided by this act. Any regulations adopted by the board of county commissioners with reference to subdividing lots shall provide for the issuance of building permits on lots divided into not more than two tracts without having to replat such lot, provided that the resulting tracts shall not again be divided without replatting except as may otherwise be provided. Such regulations shall contain procedures for issuance of building permits on such divided lots which take into account zoning regulations, the need for adequate street rights-of-way, easements and improvement of public facilities, shall provide for a procedure which shall specify a time limit within which action shall be taken and also may provide for the final decision on the issuance of such building permit to be made by the board of county commissioners, except as may be provided by law.

Any regulations adopted by the board of county commissioners may provide additional or alternative review methods if a proposed plat is located in two or more townships.

(d) The board of county commissioners is hereby authorized to name or rename streets and to number and renumber business and residence addresses in the unincorporated portion of the county.

**History:** L. 1984, ch. 96, § 6; May 3.

**19-2962. Same; board of zoning appeals; establishment; membership; meetings; powers.** (a) Any zoning regulations adopted under this act shall provide for the establishment of a board of zoning appeals. The board of zoning appeals shall consist of not less than five nor more than nine members who shall be appointed by the board of county commissioners. All of the board's members shall be residents of the unincorporated area of the county.

The members first appointed by the board of county commissioners shall be appointed for terms of one, two and three years. The terms shall be divided equally or as nearly equally as possible between members. Thereafter members shall be appointed for terms of three years each. All members shall serve until their successors are appointed and qualified. Vacancies shall be filled by appointment by the board of county commissioners for the unexpired term. Members shall serve without compensation for their services but may receive such traveling expenses as the board of county commissioners authorizes which shall be paid from any funds available for such purpose. None of the members shall hold any other elected or appointed office or position in the county government except that one member shall be a member of the planning commission.

The board of zoning appeals shall annually elect one of its members as chair person and one of its members as vice-chairperson. The board of county commissioners shall employ a secretary for the board of zoning appeals. The secretary shall keep a proper record of the board's proceedings. The board shall adopt rules in accordance with the provisions of any resolution adopted pursuant to this act. Meetings of the board shall be held at the call of the chairperson, and at such other times as the zoning regulations adopted by the board of county commissioners may determine. A majority of the board shall constitute a quorum for the transaction of business.

The board of zoning appeals shall cause a proper record to be kept of its proceedings, showing the description of evidence presented, the findings of fact by the board, the decision of the board, and the vote of each member upon each questions, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be filed in a public office designated by the board of county commissioners and shall be a public record.

(b) The board of zoning appeals shall hold a public hearing on any appeal or other matter referred to the board. Notice of such hearing shall be published at least one time in the official county newspaper at least 15 days prior to the hearing. Such notice shall include the time, place, date and subject of the hearing as well as notice to the parties in interest. Failure to receive individual notice shall not invalidate any subsequent action taken. Upon the hearing any party may appear in person or by agent or by attorney. The board shall have the power to:

(1) Hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement of any regulations adopted pursuant to the zoning powers herein granted. Appeals to the board may be taken by any person aggrieved, or by any officer, department, board or bureau of the county, or any governmental agency or body affected by any decision of the administrative officer. Such appeal shall be taken within a reasonable time, as provided by the zoning regulations, by filing with the board of zoning appeals a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken, when notified by the board of zoning appeals or its agent, shall transmit to the board all the papers constituting the record upon which the action appealed from was taken, within the time period established by the rules of the board.

(2) Authorize in specific cases a variance from the specific terms of the zoning regulations which will not be contrary to the public interest where, due to special conditions, a literal enforcement of provisions of the regulations will, in an individual case, result in unnecessary hardship, and provided that the spirit of the regulations shall be observed, public safety and welfare secured, and substantial justice done. The board of zoning appeals shall not have the power to grant variances regarding uses permitted within zoning districts, but shall be limited to granting variances on matters including, but not limited to, building height, setbacks, lot size and lot dimensions, as provided by the zoning regulations. A request for a variance may be granted in such individual case, upon a finding by the board of zoning appeals that all of the following conditions have been met: (A) The variance requested arises from such condition which is unique and which is not ordinarily found in the same zoning classification, and is created by the zoning regulations and not by an action or actions of the property owner or the applicant; (B) the granting of the variance will not adversely affect the rights of adjacent property owners or residents; (C) the strict application of the provisions of the zoning regulations of which variance is requested will constitute unnecessary hardship upon the property owner represented in the

application; (D) the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare; and (E) granting the variance desired will not be opposed to the general spirit and intent of the zoning regulations.

In exercising such powers, the board of zoning appeals, in conformity with the provisions of this act, may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination, and to that end shall have all the powers of the administrative official from whom the appeal is taken. The board of zoning appeals shall render its decision within 10 days of the conclusion of the hearing.

Any decision of the board of zoning appeals which is contrary to existing zoning regulations shall not be effective until approved by the board of county commissioners. Such decision and the record thereon shall be submitted to the board of county commissioners within two weeks of such decision and the board of county commissioners, within two weeks after receipt thereof, shall approve the decision of the board of zoning appeals or shall call for a public hearing before the board of county commissioners for the purpose of reviewing and reconsidering such decision. The failure of the board of county commissioners to act within the two-week period shall constitute approval of the decision of the board of zoning appeals. The public hearing shall be called by following the same notice requirements specified for public hearings on matters before the board of zoning appeals. The failure by parties in interest to receive individual notice shall not invalidate any subsequent action taken. At such hearing any party may appear in person or by agent or by attorney.

The board of county commissioners, in reconsidering a decision of the board of zoning appeals, shall cause a proper record to be kept of its proceedings, showing the description of evidence presented, the findings of fact by the board, the decision of the board, and the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be filed in a public office designated by the board of county commissioners and shall be a public record.

In reconsidering a decision of the board of zoning appeals, the board of county commissioners, after conducting the public hearing specified herein and within a reasonable time, shall approve, modify and approve, or overturn the decision of the board of zoning appeals.

Any person, official or governmental agency dissatisfied with any order or determination of the board of zoning appeals or the board of county commissioners may bring an action in the district court of the county to determine the reasonableness of any such order or determination.

(c) The board of county commissioners may establish a scale of reasonable fees to be paid in advance by the owner of any property at the time of making application for an appeal or variance.

**History:** L. 1984, ch. 96, § 7; May 3.

**19-2963. Same; penalties for violations; actions for enforcement.** Any county which adopts a resolution under the provisions of this act shall have power to declare the violation thereof a misdemeanor and punishable by a fine not to exceed \$500 for each offense and to provide that each day's violation shall constitute a separate offense. Such counties also shall have the authority to maintain suits or actions in any court of competent jurisdiction for the purpose of enforcing the provisions of such resolution and to abate nuisances maintained in violation thereof. In case any building or structure is or is proposed to be erected, constructed, altered, converted or maintained, or any building, structure or land is or is proposed to be used in violation of any resolution enacted under this act, the county counselor or other appropriate authority of the county, and in the event the violation relates to a provision concerning floodplain zoning, the attorney general and the chief engineer of the division of water resources of the Kansas state board of agriculture, in addition to other remedies, may institute injunction, mandamus, or other appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance, use or to correct or abate such violation or to prevent the occupancy of such building, structure or land. Any person, company, corporation, institution, municipality or agency of the state or federal government who violates any provision of a resolution relating to floodplain zoning, shall be subject to the penalties and remedies provided for herein.

**History:** L. 1984, ch. 96, § 8; May 3.

**19-2964. Same; reasonableness of regulations; appeal.** Any person having an interest in property affected may have the reasonableness of any such act, regulation or amendment thereto determined by bringing an action against the board of county commissioners in the manner set out in K.S.A. 19-223, and amendments thereto, within 30 days after the making of a decision on such act, regulation or amendment. Such action shall be brought in the district court of the county.

**History:** L. 1984, ch. 96, § 9; May 3.

**19-2965. Same; existing zoning and planning continued in force until adoption of comprehensive plan.** Any comprehensive plan or part thereof, subdivision regulations or zoning regulations adopted by the board of county commissioners under the provisions of K. S. A. 19-2901 to 19-2913, inclusive, and amendments thereto, shall continue in force and effect until a comprehensive plan or part thereof, subdivision regulations or zoning regulations are adopted as provided in this act.

**History:** L. 1984, ch. 96, § 10; May 3.

**19-2966 Severability of act.** If any provision of this act is held to be invalid, such invalidity shall not affect the validity of other provisions of the act which can be given effect without the invalid provision.

**History:** L. 1984, ch. 96, § 11; May 3.