

ARTICLE 3.
RESPONSIBLE AUTHORITIES AND ADMINISTRATIVE DUTIES

Section 1. JOHNSON COUNTY PLANNING OFFICE:

The Johnson County Planning Office has the primary responsibility for administering and enforcing these regulations. The Planning Director is the administrative head of that office and is or shall appoint a Zoning Administrator who shall be the administrative officer to carry out the duties and responsibilities of administering these regulations. In general, the Zoning Administrator shall inspect structures and uses of land to determine compliance with the provisions of these regulations and any application filed pursuant to those provisions. The Planning Office shall:

- A. Compile and maintain copies of the official text of the Johnson County Zoning and Subdivision Regulations and the zoning maps and any amendments thereto.
- B. Receive, file, and forward for action all appeals and applications for conditional use permits, special permits, accessory dwelling unit permits, rezonings, subdivision plats and variances which may be filed with that office.
- C. Maintain permanent and current zoning administration records.
- D. Issue permits or review applications for permits as provided herein.
- E. Provide such clerical, technical and consultative assistance as may be required by the Zoning Boards and other boards and commissions in the exercise of their duties relating to these regulations.
- F. Initiate, from time to time, a study of the County's Comprehensive Plan and the provisions of the Zoning and Subdivision Regulations, and make recommendations to the Planning Commission concerning the same at least once a year.

Section 2. BOARD OF COUNTY COMMISSIONERS:

The Board is the elected governing body of the County, and as such, has the final authority to approve or disapprove all amendments to these regulations, subdivision plats, development plans, rezoning requests and conditional use permit, special permit, and accessory dwelling unit permit applications submitted to the County for consideration. In addition, the Board shall review and reconsider any decision of the Board of Zoning Appeals which is contrary to these Zoning Regulations. In reconsidering a decision of the Board of Zoning Appeals, after conducting a public hearing as required, and within a reasonable time, the Board shall approve, modify and approve, or overturn the decision of the Board of Zoning Appeals pursuant to its statutory authority.

Section 3. PLANNING COMMISSION:

- A. Establishment - Authority of Commission: The Johnson County Planning Commission was established in accordance with the provisions of K.S.A. 19-2957. The Planning Commission, with the approval of the Board of County Commissioners, shall have the authority to prepare or cause to be prepared a comprehensive plan for the coordinated development of Johnson County. The Planning Commission shall also be authorized to submit recommendations to the Board regarding the adoption of proposed amendments to the Johnson County Zoning and Subdivision Regulations and amendments to the Comprehensive Plan. The Planning Commission shall annually review the adopted Comprehensive Plan for the purposes of determining if any portion of the plan has become obsolete and shall make a report to the Board regarding same on or before

June 1 of each year. Furthermore the Planning Commission shall review all proposed amendments to the Zoning and Subdivision regulations and present a recommendation to the Board.

- B. Membership: The Planning Commission shall consist of twelve (12) members who are appointed by the Board. Nine (9) of such members shall be residents of the unincorporated area of the County. Three (3) of the twelve (12) members shall be residents of the incorporated area of the County. At least one member of each Zoning Board and each Consolidated Zoning Board in the County shall be appointed by the Board to serve as one of the nine (9) members representing the unincorporated area. For the remaining positions, the Board shall endeavor, but not be required, to appoint a resident from any township which lacks representation on the Planning Commission
- C. General Provisions: The Planning Commission shall be subject to the general provisions of Section 7 of this Article.

Section 4. ZONING BOARDS:

- A. Establishment - Authority of the Zoning Boards: The Board has, in accordance with the provisions of K.S.A. 19-2957, established by resolution a zoning board for various townships in the County. Each zoning board is authorized to submit recommendations to the Board regarding the approval or disapproval of subdivision plats, development plans, rezoning requests and conditional use permit, special permit, and accessory dwelling unit permit applications concerning any tract of land located within the applicable township(s).
- B. Membership: Each zoning board, except for Consolidated Zoning Boards as provided below, shall have five (5) members consisting of:
 - 1. Four (4) residents of the unincorporated area of the County appointed by the Board, and
 - 2. The township trustee, 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 shall appoint another resident of such township to serve in the trustee's place and any person so appointed shall hold the position on the Zoning Board as long as such trustee serves on the Township Board.
- C. General Provisions: The Zoning Boards shall be subject to the General Provisions of Section 7 of this Article.
- D. Consolidated Zoning Boards: The Board, by resolution, may appoint one or more consolidated zoning boards to serve two or more townships, or portions thereof, within the County. Such a 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 at least 10 days before the public hearing. Any consolidated zoning board so appointed shall consist of not less than five (5) nor more than nine (9) members each of whom shall be residents of the townships, or portions thereof, included in the territory which is subject to the consolidated zoning board's jurisdiction. Membership on the consolidated zoning board shall be determined by the Board. The members first appointed by the Board 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 for the unexpired term. Members shall serve without compensation for their services, but may receive such traveling expenses as the Board authorizes which shall be paid from any funds available for such purpose. Upon the appointment of any consolidated zoning boards, any separate zoning board which was established for the purpose of making recommendations on subdivision plats, development plans, rezoning requests and conditional use permits, special permits, and accessory dwelling unit permits for any

territory subject to the jurisdiction of such consolidated zoning board, shall be dissolved by order of the Board. 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. The consolidated zoning boards shall meet, select officers and keep records in the same manner as provided for zoning boards. Such consolidated zoning boards shall have the same powers and duties as prescribed for zoning boards insofar as the same may be made applicable and shall perform any additional duties which the Board prescribes and, in all cases, shall be subject to the jurisdiction and under the control and approval of the Board.

Section 5. BOARD OF ZONING APPEALS (BZA):

- A. Establishment: The BZA for the unincorporated area of Johnson County is hereby established under the authority of K.S.A. 19-2962.
- B. Membership: The BZA shall consist of seven members who shall be appointed by the Board. All members shall be residents of the unincorporated area of the County and each township, where possible, shall be represented on the BZA, by the appointment of at least one resident of each township. None of the members appointed 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.
- C. General Provisions: The BZA shall be subject to the General Provisions in Section 7 of this Article.
- D. BZA Procedure: The BZA shall conduct hearings and make decisions in accordance with the following requirements:
 - 1. Public Hearings: The BZA shall hold a public hearing on any appeal or other matter referred to the BZA.
 - 2. Public Notice: Notice of the time, place, date and subject of the public hearing shall be published at least one time in the official county newspaper at least 15 days prior to the hearing. The notice shall also be mailed to each of the parties of interest and shall be provided to the Board. The notice shall contain the street address or location of the property involved and a brief description of the nature of the appeal. Failure to receive individual notice shall not invalidate any subsequent action taken by the BZA.
 - 3. Notices: Notices of the appeal or an application for a variance shall also be sent as a courtesy to the members of the Zoning Board having jurisdiction for the territory in which the property in question is located. Failure to receive the notice shall not affect any subsequent action taken thereon by the BZA.
 - 4. Representation: At the hearing, any party may appear in person or by an agent or attorney.
 - 5. Record of Proceedings: The BZA shall cause a proper record to be kept of its proceedings. The record shall include:
 - a. The description of evidence presented.
 - b. The findings of fact by the BZA.
 - c. The decision of the BZA.

- d. The vote of each member upon each question, or if absent and failing to vote, indicating such fact.
 - e. The BZA examinations and official actions. All of BZA's minutes and other records shall be filed in the Johnson County Planning Office and shall be a public record.
6. Additional Rules of Business: The BZA shall adopt by resolution, and with the approval of the Board, other rules for the transaction of its business.
7. Fees: A filing fee shall be paid at the time any appeal or application for a variance is filed. Filing fees shall be in the amount established by resolution of the Board. No fee shall be charged for an appeal or application filed by any officer, department or board of the County.
- E. Commencement of Proceedings Before the BZA:
- 1. Appeals:
 - a. Appellant: Appeals to the BZA may be taken by any person aggrieved, or by any officer, department head or bureau of the county or any government agency or body affected by any decision of the Zoning Administrator who alleges there is an error in any order, requirement, decision or determination made by the Zoning Administrator in the enforcement of any regulations adopted pursuant to the zoning authority of the County, or by any officer, department, board or bureau of the County, or any governmental agency or body affected by any decision of the Zoning Administrator in the enforcement of any regulations adopted pursuant to the statutory zoning authority granted to the County. Such appeal shall be filed with the secretary of the BZA within thirty (30) days from the date of the decision by the Zoning Administrator, and such appeal shall specify in writing the grounds for appeal of the officer's decision. The officer from whom the appeal is taken, when notified by the BZA or its secretary, shall transmit to the BZA all the papers constituting the record upon which the action appealed from was taken, within the time period established by the rules of the BZA.
 - b. Effect of Appeal: An appeal to the BZA shall act as a stay regarding all proceedings in furtherance of the action appealed from, including, an applicant's ability to proceed with development or other such activities under a building permit, if the issuance of the permit is the subject of the appeal.
 - c. Notwithstanding any other term or provision contained within these regulations to the contrary, if any, the BZA shall not have any authority over nor review any matter related to a citation, a prosecution or enforcement action commenced in court by a county code enforcement officer or other authorized law enforcement official, regarding any alleged violation of these regulations or any code or standard adopted by said regulations, and all such actions shall be heard and reviewed by an appropriate court of competent jurisdiction, as more fully set forth in Article 6 of these regulations.
 - 2. Variances: Any person who would qualify as an applicant as provided in Article 4, Section 1, of these regulations may apply to the BZA for a variance by filing an application with the secretary of the BZA. The application shall include at least the following:
 - a. The name, address and phone numbers of each applicant.
 - b. The names, addresses and phone numbers of the owner of the property in question and of the applicable architect, professional engineer and contractor, if any.

- c. A list of the names and addresses of the owners of record of all property within 1,000 feet of the property in question. Such list shall have been originated by a licensed abstractor, title company or similarly qualified person whose services have been secured by the applicant and said list shall be compiled from the official records of the County Register of Deeds.
- d. A map or plat showing the location and record owner of each property opposite or abutting the property in question.
- e. A map or plot plan, drawn to scale, of the property in question.
- f. A narrative statement of the grounds offered as support for the variance, including the necessary hardship that will be imposed upon the applicant if the regulations are literally enforced.

F. Authority: The BZA shall have the authority to:

- 1. Hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by an administrative official in the enforcement of any regulations adopted pursuant to the zoning authority of the County. The BZA, in conformity with the provisions of applicable law, 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.
- 2. Recommend in specific cases a variance from the specific terms of these zoning regulations which will not be contrary to the public interest where, due to special conditions, a literal enforcement of the provisions of the regulations will, in an individual case, result in unnecessary hardship for the applicant 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 act upon variances regarding uses permitted within zoning districts. The Board of Zoning Appeals shall be limited to granting variances on matters including, among others, building height, setbacks, lot size and lot dimensions, as provided by the zoning regulations. A request for a variance may be granted to an applicant upon a finding by the BZA 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 created by an action or actions of the property owner or 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.
- 3. In acting upon a variance, the BZA may recommend appropriate reasonable conditions and safeguards which relate to the actual implementation of the variance allowed and which may

include, but not be limited to, planting screens, fencing, construction commencement and completion dates, lighting, road access restrictions, and parking requirements which are reasonably related to the variance upon a finding that they are necessary to fulfill the purpose and intent of the zoning regulations.

- G. **Written Decisions:** The BZA shall render its decision in writing within ten (10) days of the conclusion of the hearing. Decisions shall be filed in the Planning Office and shall be a public record.
- H. **Consideration by the Board:** Any decision of the BZA which is contrary to the existing zoning regulations shall not be effective until approved by the Board. Such decision and the record thereon shall be submitted to the Board within two weeks of such decision. The Board shall, within two weeks after receipt thereof, approve the decision of the BZA or shall call for a public hearing before the Board for the purpose of reviewing and reconsidering such decision. The failure of the Board to act within the two-week period shall constitute approval of the decision of BZA. The public hearing before the Board shall be called and conducted by following the same notice and procedure requirements specified in this Article for public hearings on matters before the BZA. 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, in reconsidering a decision of the BZA 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 the Planning Office and shall be a public record. In reconsidering a decision of the BZA, the Board, after conducting the public hearing specified herein and within a reasonable time, shall approve, modify and approve, or overturn the decision of the BZA.
- I. **Dissatisfaction with the Determination:** 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 Johnson County District Court to determine the reasonableness of any such order or determination.

Section 6. AIRPORT ZONING COMMISSION (AZC):

- A. **Establishment:** The Board may appoint an Airport Zoning Commission (AZC) for review, consideration and recommendations on zoning, conditional use permit, land development, and subdivision proposals on the public airport properties and within the Airport Interest Areas as established and provided in Article 21 of these regulations except where such areas have already been zoned by city action. For city zoned areas within the Airport Interest Area, the AZC shall participate in the review and consideration of any changes in existing city zoning as provided in Article 21 of these regulations. The public airport properties of interest to the AZC shall include the New Century AirCenter, the Johnson County Executive Airport, property in the vicinity of those airports as provided by Article 21 of these regulations, and privately owned airports with facilities used to provide a service to the public and located in the unincorporated area of the County or within five (5) miles of the territorial limits of such. The Airport Zoning Commission shall review and comment on land use plans proposed for land under the jurisdiction of the Johnson County Airport Commission as provided in Article 21 of these regulations.
- B. **Membership:** The AZC shall have five (5) members who shall be appointed by the Board. All members shall be residents of the County. At least one member shall be a resident of a township near the airport(s), at least one member shall be a resident of a city near the airport(s), and at least one member shall be a member of the Airport Commission. None of the members appointed shall

hold any other elected or appointed office or position in the County government, except for any AZC member who also is a member of the Airport Commission.

C. General Provisions: The AZC is subject to the General Provisions in Section 7 of this Article.

D. General Procedures:

1. The AZC shall participate in the review, consideration and recommendations on rezonings, conditional use permits, development plans, and subdivision proposals as provided in Article 21, Section 10, (D) of these regulations. The public hearing and procedural requirements applicable to Zoning Board consideration of rezonings, conditional use permits, development plans, and subdivision proposals in these Regulations shall apply to such actions of the Airport Zoning Commission.
2. The AZC also shall participate in the review, consideration and recommendations on any proposed amended or new airport vicinity land use plans or land use regulations. The AZC's comments and recommendations on such plans or regulations shall be submitted to the Johnson County Airport Commission and the Johnson County Planning Commission for review, comment and recommendation before being submitted to the Board. The AZC in performing these duties shall recommend the boundaries of the various airport hazard zones to be established and the regulations to be adopted therefor. The AZC shall make a preliminary report and hold public hearings thereon before submitting its final report. AZC public hearings shall follow public notices as provided by statute. Notice of such public hearing shall also be given in writing to all other governmental units, whether an incorporated city or a township, with zoning jurisdiction for land which would be subject to such airport zoning regulations. The preparation of such airport zoning regulations shall be preceded by written notice to such other jurisdictions inviting their participation in the preparation of the proposed regulations. Such regulations may provide that a city planning commission or comprehensive zoning commission already in existence may be appointed as the airport zoning commission with respect to the regulations adopted or portions thereof.

Section 7. GENERAL PROVISIONS FOR THE PLANNING COMMISSION, ZONING BOARDS, CONSOLIDATED ZONING BOARDS, BOARD OF ZONING APPEALS AND AIRPORT ZONING COMMISSION:

- A. Terms of Office: The members first appointed by the Board shall be appointed for terms of one, two, and three years. The terms shall be divided equally or as nearly equally as possible between 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 for the unexpired term. Any person appointed to serve on a Zoning Board or Consolidated Zoning Board in a trustee's place shall hold the position on the zoning board as long as such trustee serves on the township board.
- B. Compensation: Members serve without compensation for their services, but may receive such traveling expenses as the Board authorizes.
- C. Officers: The Planning Commission, each Zoning Board, the Board of Zoning Appeals and the Airport Zoning Commission shall select one of its members as chairperson and one as vice-chairperson who shall serve one year terms and until their successors have been selected. The vice-chairperson shall act as chairperson when the chairperson is absent or abstaining. The Chairperson and Vice-Chairperson of the Airport Zoning Commission may be members of the Airport Commission if they also are appointed to the Airport Zoning Commission by the Board.

- D. Secretary: The Director of the Johnson County Planning Office shall designate a member or members of his/her staff to serve as secretary or secretaries for the Planning Commission, each Zoning Board, and the Board of Zoning Appeals, and the Airport Zoning Commission. The secretary for each body shall be responsible for keeping a proper record of the proceedings of each body.
- E. Meetings: The Planning Commission, each Zoning Board, the Board of Zoning Appeals, and the Airport Zoning Commission shall meet at such time as its members fix by resolution, with the approval of the Board. Special meetings may be called at any time by the Chairperson or, in the Chairperson's absence, by the Vice-Chairperson.
- F. Quorum: A majority of the members of the Planning Commission, each Zoning Board, the Board of Zoning Appeals, or the Airport Zoning Commission, shall constitute a quorum for the transaction of business. Except for Planning Commission recommendations on original adoption of regulations which require a majority vote of all members of the Planning Commission, the concurring vote of a majority of the members present shall be necessary to constitute a recommendation whereas a vote for or against by less than a majority of the members present constitutes a "failure to recommend."
- G. By-Laws: The Planning Commission, each Zoning Board, the Board of Zoning Appeals, and the Airport Zoning Commission shall make and adopt, with the approval of the Board, rules for the transaction of their business.