

CHAPTER XVI: ZONING AND PLANNING

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ARTICLE 1: CITY PLANNING COMMISSION/BOARD OF ZONING APPEALS

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§ 16-101 COMMISSION RE-ESTABLISHMENT.

(a) There is hereby re-established the City Planning Commission, which is composed of seven members of which five members shall be residents of the city and two members shall reside outside the city, but within the designated planning area of the city that is within at least three miles of the corporate limits of the city.

(b) The Planning Commission was originally created by Ord. 1335, which was passed and approved on May 21, 1996.

§ 16-102 MEMBERSHIP, TERMS, INTEREST AND COMPENSATION.

The members of the Planning Commission shall be appointed by the Mayor with the consent of the governing body at the first regular meeting of the governing body in May of each year and take office at the next regular meeting of the Commission. All members shall be appointed for staggered terms of three years each. The appointments shall be so made that the terms of office of the members residing outside of the corporate limits of the city do not expire within the same year. By the re-establishment of the Commission, all current members continue to serve their present terms of office. In case of death, incapacity, resignation or disqualification of any member, appointment to such a vacancy on the Commission shall be made of the unexpired term of the member leaving the membership. Should any member have a conflict of interest, either directly or indirectly, in any matter coming before the Commission, he or she shall be disqualified to discuss or vote on the matter. The governing body may adopt rules and regulations providing for removal of members of the Commission. Members of the Commission shall serve without compensation, but may be reimbursed for expenses actually incurred in the performance of their duties as deemed desirable by the governing body.

§ 16-103 MEETINGS, OFFICERS AND RECORDS.

The members of the Planning Commission shall meet at such time and place as may be fixed in the Commission's bylaws. The Commission shall elect one member as Chairperson and one member as Vice-Chairperson who shall serve one year and until their successors have been elected. A Secretary shall also be elected who may or may not be a member of the Commission. Special meetings may be called at any time by the Chairperson or in the Chairperson's absence by the Vice-Chairperson. The Commission shall adopt bylaws for the transaction of business and hearing procedures. All actions by the Commission shall be taken by a majority vote of the entire membership of the Commission; except that, a majority of the members present and voting at the hearing shall be required to recommend approval or denial of an amendment to the zoning regulations, a rezoning amendment or a special use permit. A proper record of all the proceedings of the Commission shall be kept. The Commission, from time to time, may establish subcommittees, advisory committees or technical committees to advise or assist in the activities of the Commission.

§ 16-104 POWERS AND DUTIES.

The governing body and Planning Commission shall have all the rights, powers and duties as authorized in K.S.A. 12-741 et seq., and amendments thereto, which are hereby incorporated by reference as part of this section and shall be given full force and effect as if the same had been fully set forth. The Commission is hereby authorized to make or cause to be made, adopted and maintained a Comprehensive Plan for the city and any unincorporated territory lying outside of the city but within the county in which the city is located, which in the opinion of the Commission forms the total community of which the city is a part. The Commission shall also cause to be prepared, adopted and maintained zoning and subdivision regulations on all land within the jurisdiction designated by the governing body. The Comprehensive Plan and zoning and subdivision regulations are subject to final approval of the governing body by ordinance. Periodically, the governing body may request the Commission to undertake other assignments related to planning and land use regulations.

§ 16-105 BOARD OF ZONING APPEALS.

(a) The Planning Commission is hereby designated to also serve as the city's Board of Zoning Appeals with all the powers and duties as provided for in K.S.A. 12-759. The Board shall adopt rules in the form of bylaws for its operation which shall include hearing procedures. Such bylaws shall be subject to the approval of the governing body. Public records shall be kept of all official actions of the Board which shall be maintained separately from those of the Commission. The Board shall keep minutes of its proceedings showing evidence presented, findings of fact, decisions and the vote upon each question or appeal. A majority of the members of the Board present and voting at the hearing shall be required to decide any appeal.

(b) Subject to subsequent approval of the governing body, the Board shall establish a scale of reasonable fees to be paid in advance by the appealing party.

§ 16-106 BUDGET.

The governing body shall approve a budget for the Planning Commission and make such allowances to the Commission as it deems proper, including funds for the employment of such employees or consultants as the governing body may authorize and provide, and shall add the same to the general budget. Prior to the time that monies are available under the budget, the governing body may appropriate monies for such purposes from the General Fund. The governing body may enter into such contracts as it deems necessary and may receive and expend funds and monies from the state or federal government or from any other resource for such purposes.

ARTICLE 2: ZONING REGULATIONS

Section

16-201 General regulations

§ 16-201 GENERAL REGULATIONS.

Zoning regulations of the City of WaKeeney as adopted by the codification of ordinance no 1299, specifically division (a) (Districts) pertaining to dividing the City of WaKeeney, Kansas into zones or districts for the purpose of regulating and restricting the location, erection, alteration, and repair of buildings and other structures and the use of land within each district or zone; and division (g) (Residence Area regulations) pertaining to building heights and property line set backs; and prescribing a penalty for the violation of zoning ordinances; and repealing all ordinances in conflict herewith.

(a) *Districts.*

(1) For the purpose of regulation and restricting the location of trades, industries and commercial enterprises, and the location, erection, alteration and repair of buildings designed for specified uses, and the uses of land within each district, the City of WaKeeney, Kansas, is hereby divided into the following districts:

- (A) Residence District;
- (B) Business District; and
- (C) Industrial District.

(2) The Business District shall include the following territory: South 100 feet of Block 17:

- (A) Lots 17, 18, 19, 20 and W/2 of Block 31; All of Block 32;
- (B) Lots 5, 6, 7, 8 and E/2 of Block 33;
- (C) Lots 8, 9, 10 and 11 in Block 37;
- (D) Lots 8, 9, 10 and 11 in Block 38;

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(E) Lots 8, 9 and E/2 of Block 39;

(F) All of Blocks 40, 41 and 42;

(G) West half of Block 55;

(H) All of Blocks 56 and 57;

(I) All of blocks 1 and 2; Niedens Addition;

(J) 420 feet west and 320 feet east of intersection of South Avenue and 13th Street, hence south to 1-70 right-of-way;

(K) All property south of Barclay Avenue and west of South First Street, within the corporate city limits;

(3) The Industrial District shall include the following territory:

(A) Lots 5, 6, 7, 8 and 9 of Block 37;

(B) West half of Block 53;

(C) All of Blocks 54 to 64, inclusive;

(D) W/2 and north 250 feet of E/2 of Block 65;

(E) North 250 feet of Blocks 66 and 67;

(F) West half of Block 80;

(G) All of Block 81;

(H) Blocks 100, 101, 102, 103, 104, 105, 106, 107, 108, 84 and 85; and

(I) Lots 16, 17, 18, 19, 20 and 21 of Block 89.

(4) The Fire District shall include the property listed below that is within the Business and/or Industrial Districts:

(A) Southeast 1/4, and W/2 of block 31;

(B) Southwest 1/4, and E/2 of Block 33;

(C) East half of Block 39; and

(D) All of Blocks 40, 41 and 42.

(5) The Residential District shall include all area within the limits of the city, except that hereinbefore designated as Business and Industrial Districts.

(b) *Residence District.* In the Residence District as noted on said zoning map, no building, single-wide mobile homes, metal shipping containers, truck boxes or covered trailers shall be hereafter erected, structurally altered or moved in, unless otherwise provided in these regulations except for one or more of the following uses:

- (1) One family dwelling;
- (2) Churches and schools;
- (3) Park and playgrounds;
- (4) Two or more family dwellings;
- (5) Apartment houses and hotels;
- (6) Boarding and lodging houses;
- (7) Nurseries and greenhouses;
- (8) Hospitals, sanitarium, clinic, nursing home, philanthropic or eleemosynary institutions;
- (9) Private clubs;
- (10) Accessory use;
- (11) Accessory buildings; and
- (12) Mortuary and funeral homes.

(c) *Commercial District.* In the Commercial District all buildings and premises except as otherwise provided in these regulations may be used for any lawful purpose, except the following:

- (1) Junk or scrap iron storage, storage or baling of rag and waste paper;
- (2) Dead animal rendering works;
- (3) Petroleum refining;
- (4) Petroleum storage in excess of 1,000 gallons, above ground;
- (5) Machine shop employing more than five (5) persons;

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(6) Fireworks or explosive manufacture or storage;

(7) Alfalfa mills;

(8) Stockyards;

(9) Dye works;

(10) Contractor's storage yard;

(11) Silica or pumice processing plants;

(12) Tar distillation manufacture or paving mixture plants;

(13) Any trade, industry or use that is noxious or offensive by reason of the emission of odor, dust, smoke, gas or noise or any uses declared nuisances in any court of records;

(14) All buildings or structure of unsightly appearance or which may be declared nuisances in any court of record; and

(15) Any kind of manufacture or industry other than the manufacture or treatment of products clearly incidental to the conduct of a retail business on the premises.

(d) *Industrial District.* In the Industrial District all buildings or premises, except as otherwise provided in these regulations, may be used for any lawful purpose except the following:

(1) Dead animal rendering works;

(2) Garbage dumping;

(3) Alfalfa mills;

(4) Petroleum refining;

(5) Tar distillation manufacture or paving mixture plants;

(6) Any trade industry or use that is noxious or offensive by reason of the emission of odor, dust, smoke, gas, or noise, or any uses declared nuisances in any court of record;

(7) Salvage yards, junk or scrap iron storage, storage or baling of rags and waste paper, storage of junk autos, machinery and equipment, storage or piling of any other waste materials or refuse; and

(8) Stockyards.

(e) *Accessory use and buildings in Residence Districts.* An accessory to an authorized use in the

Residence District and located on the same lot (not involving the conduct of retail business) including one private garage when located not less than fifty feet (50') from the front line or in a fire proof compartment within a part of the main building, and including also home occupations engaged in by the occupants of a dwelling not involving the conduct of a retail business on the premises, such as the office of a physician, dentist, musician, artist or other professional person; provided, that no advertising sign exceeding one square foot (1 sq. ft.) in area shall be permitted in any part of said district except temporary signs displaying names of contractor in construction, sale of premises, and church and school signs. Metal shipping containers, truck boxes or covered trailers are prohibited from use as detached accessory buildings in residential areas.

(f) *Nonconforming use.*

(1) Any lawful use of property existing at the time of the passage of these regulations that does not conform to the regulations prescribed in the preceding sections of these regulations shall be deemed a nonconforming use and such nonconforming use may be continued, but if such nonconforming use is discontinued, any further use of said premises shall be in nonconformity with the provisions of these regulations. A nonconforming use, if changed to a more restricted use, or to a conforming use, may not thereafter be changed back to a less restricted use.

(2) A building arranged, designed or devoted to a nonconforming use at the time of the passage of these regulations may not be reconstructed or structurally altered to an extent exceeding in aggregate costs during any ten (10) year period, sixty percent (60%) of the assessed value of the building, unless the use of the building is changed to a conforming use; provided these regulations shall not prevent the restoration of a building damaged no more than fifty percent (50%) of its assessed valuation by fire, explosive, act of God or the public enemy.

(g) *Residence Area regulations.* No enclosed building hereafter erected or altered in the Residence Area shall exceed two and one-half stories, or be less than one story above the ground. The depth of the front and side yard measured back from the street line or property line shall not be less than twenty feet (20'). There shall be a side yard of not less than four feet (4') in width from any adjacent property line. The rear yard shall be not less than twenty feet (20'). Structures erected in the rear yard may be erected on the back property line; provided that no opening shall face the alley side. If a structure is to have an alley side opening, the structure shall be built no closer than twenty feet (20') to the back property line.

(h) *Permits.* No permit shall be issued nor shall any building be moved in, unless there is a permit filed in the office of the City Clerk/Administrator by the applicant in accordance to the regulations set forth in § 4-211 of the municipal code. In specific cases the governing body may authorize by permit a variation of the application of the use, height and area district regulations herein established in harmony with the general purpose of intent.

(i) *Boundaries of Districts.* The boundaries of the districts are, unless otherwise indicated, the centerlines of street or alleys.

(j) *Enforcement.* It shall be the duty of the City Clerk/Administrator to enforce the building and zoning regulations as set forth in § 4-202.

(k) *Validity*. If any section, paragraph, clause or provision of these regulations shall be declared invalid by any court of competent jurisdiction, the same shall not affect the validity of these regulations or any part or provision thereof, other than the part so declared to be invalid.

(Ord. 1421, passed 6-1-2010)

ARTICLE 3: SUBDIVISION REGULATIONS

Section

16-301 Regulations incorporated

§ 16-301 REGULATIONS INCORPORATED.

There are hereby incorporated by reference, as if set out fully herein, certain regulations governing the subdivision of land located within the city and certain surrounding area as described therein, as adopted by the governing body. One copy of the subdivision regulations marked “Official Copy as incorporated by the Code of the City of WaKeeney” and to which there shall be a published copy of this section attached, shall be filed with the City Clerk/Administrator to be open for inspection and available to the public at all reasonable hours.

