



## PLANNING COMMISSION MEETING AGENDA

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Tuesday, June 09, 2026 at 5:30 PM – 400 W Madison Ave, Arkansas City, KS

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To join us virtually visit: <https://teams.microsoft.com/meet/222193473492545?p=nIVdwC1Bxr7Krwdf4l>  
Meeting ID: 222 193 473 492 545 Passcode: 43Hv23wW

### Call to Order

### Roll Call

- |  |  |  |  |
|--|--|--|--|
| <input type="checkbox"/> Mike Bergagnini | <input type="checkbox"/> Lloyd Colston | <input type="checkbox"/>                 | <input type="checkbox"/> Chris Johnson |
| <input type="checkbox"/> Travis Pearman  | <input type="checkbox"/> Duane Oestman | <input type="checkbox"/> Cody Richardson | <input type="checkbox"/> Dotty Smith   |

### Consent Agenda

1. Meeting Minutes, **May 12, 2026 meeting.**
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### Consideration

2. Consider the advisability of rezoning 519 W Skyline Rd from an R-1 (Low Density Residential District) to an A (Agricultural District).
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3. Discuss the bylaws and suggest changes as appropriate.
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### Other Items

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### Adjournment

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3. Consider the advisability of vacating a 16-foot alley adjacent to Lots 9-14 & 23-28, Block 12, Gooch's Addition to Arkansas City, Kansas.

Duane made the motion to open the public hearing at 6:11 PM and Lloyd Colston made the second motion. Voice vote carried the motion.

Josh explained to the board about the property in question. Josh noted that the utilities are in the alley, and easements would be protected. Verna Welch and Glenna Baker said the property has not been maintained. Josh stated that the property had been platted back in 1887. Dotty stated that property owners are supposed to maintain the alley; Josh stated that it isn't enforced with farmland. Randy Frank stated that he is trying to purchase the lots to the south of him.

Duane Oestman made the motion to close the public hearing at 6:20 Lloyd Colston made the second. Voice vote carried the motion.

Duane Oestman made the motion to approve to vacate a 16-foot alley adjacent to Lots 9-14 & 23-28, Block 12, Gooch's Addition to Arkansas City, Kansas and Lloyd Colston made the second motion. Roll Call vote carried the motion.

#### **Other Items**

4. Discuss Planning Commission/Board of Zoning Appeals bylaws

Dotty has issues with the out-of-town planning commission members having a vote with city business.

After discussion, Josh stated that he will reach out to other municipalities and see how they do their boards.

**Lloyd Colston made the motion to adjourn the meeting at 6:40 PM and Duane Oestman made the second motion. Voice vote carried the motion.**



# Planning Commission Agenda Item

**Meeting Date:** 6/9/2026  
**From:** Josh White, Community Development Director  
**Item:** 519 W Skyline Rd Rezone

**Purpose:** Consider the advisability of rezoning 519 W Skyline Rd from an R-1 (Low Density Residential District) to an A (Agricultural District).

**Background:**

The subject property is located at 519 W Skyline Road. The surrounding area is comprised of residential and industrial uses. The property consists of approximately 11.54 acres. The applicant is requesting a rezone from R-1, Low Density Residential District to an A, Agricultural District. The change would allow continued agricultural use on the site.

It is the recommendation of staff that the requested rezoning R-1 to A be approved based on the following conclusions:

- The use of the property has long been agricultural
- The proposed change should not negatively impact the neighborhood.
- The proposed change has an opportunity to have a positive effect on public health.

At the May meeting, this request was denied and the applicant has requested an opportunity to request a rehearing. Per Section 27-106, an applicant may request a rehearing if substantial justification is given. If that is determined to be the case, the request will be advertised and a public hearing held at the next scheduled meeting.

**Action:**

Hear justification from the applicant and consider the request.

**Attachments:**

Staff report

Presentation Link: <https://arcg.is/u5fPW>



Community Development Division  
 Josh White, Director  
 118 W Central Ave, Arkansas City, KS 67005

Phone: 620-441-4420 Email: [jwhite@arkansascityks.gov](mailto:jwhite@arkansascityks.gov) Website: [www.arkcity.org](http://www.arkcity.org)

CASE NUMBER  
 RZ-2025-123

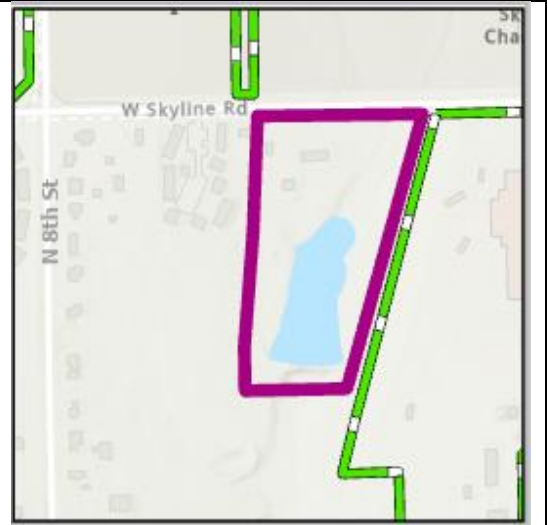
APPLICANT/PROPERTY OWNER  
 Lance Rudman

PUBLIC HEARING DATE  
 May 12, 2026

PROPERTY ADDRESS/LOCATION  
 519 W Skyline Rd

**SUMMARY OF REQUEST**

The subject property is located at 519 W Skyline Road. The surrounding area is comprised of residential and industrial uses. The property consists of approximately 11.54 acres. The applicant is requesting a rezone from R-1, Low Density Residential District to an A, Agricultural District. The change would allow continued agricultural use on the site. Staff recommend granting the rezone.



Map data ©2026 Esri World Topographic map

<p><b>EXISTING ZONING</b>                  R-1, Low Density Residential District</p>	<p><b>EXISTING LAND USE</b>                  Pasture and residential</p>	<p><b>SURROUNDING ZONING &amp; LAND USE</b>                  North: I-2; Industrial                  South: R-1; Vacant                  East: Unzoned; Industrial                  West: R-3; Residential Apartments</p>	<p><b>SITE IMPROVEMENTS</b>                  Two homes and accessory buildings</p>	<p><b>SIZE OF PROPERTY</b>                  11.54 acres</p>
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STAFF RECOMMENDATION

**APPROVE**

**APPROVE WITH CONDITIONS**

**DENY**

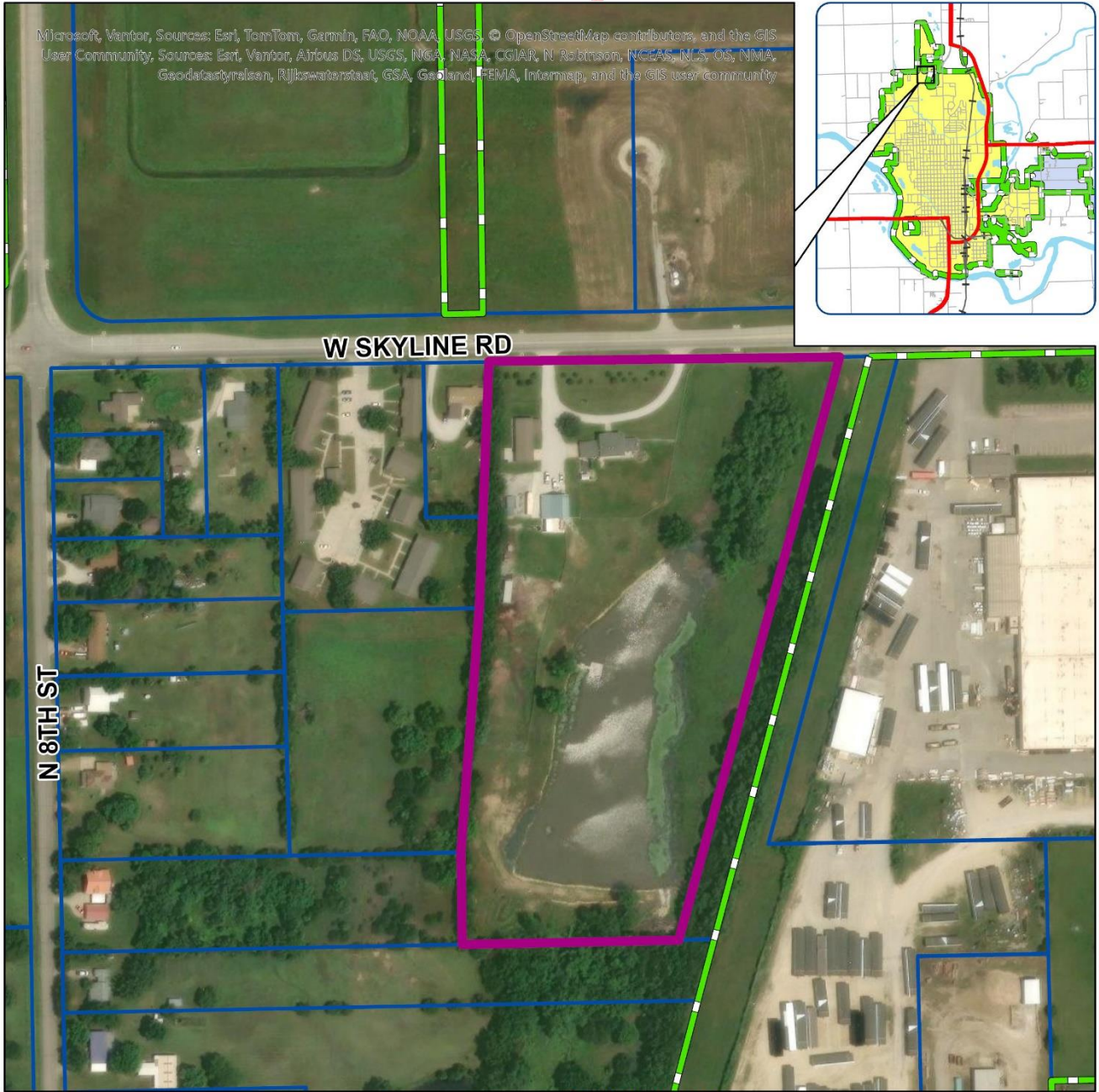
**COMPATIBILITY with the COMPREHENSIVE PLAN**  
 The Future Land Use portion of the Comprehensive Plan designates this property as residential as that was the use in 2014 when the maps were originally drawn. The use remained residential in 2022 when the maps were updated. There is a goal in Chapter 7 of the Comprehensive Plan to "Encourage easy access to healthy foods" and an action relating to promoting urban agricultural as well as produce stands and community gardens. This change doesn't necessarily assist the community with that goal, but the opportunity is there.

**PROPERTY HISTORY**  
 This property was annexed into the city in 1986. In 1987, the property was zoned B-2 (current C-3) for a construction business. In 2014, when the city was rezoned, the property was owned by the current applicant, was not being used as a commercial property, and was classified as R-1.

**COMPATIBILITY with the ZONING ORDINANCE**  
 The surrounding area is comprised of residential and industrial uses. It is the intent of the A District to preserve and protect agricultural resources. The district is not intended to serve the homeowner who lives on a small suburban lot but is designed to accommodate agricultural operations on substantial acreage. Uses that might have nuisance characteristics, if intermingled in developed residential areas, are permitted on the basis that they are no more offensive than normal agricultural uses. The change in classification would be consistent with the intent and purpose of these regulations.

# Rezone Request

Microsoft, Vantor, Sources: Esri, TomTom, Garmin, FAO, NOAA, USGS, OpenStreetMap contributors, and the GIS User Community, Sources: Esri, Vantor, Airbus DS, USGS, NGA, NASA, CGIAR, N. Robinson, NCEAS, NLS, OS, NMA, Geodatastyrelsen, Rijkswaterstaat, GSA, Geoland, FEMA, Intermap, and the GIS user community



W SKYLINE RD

N 8TH ST

A request to rezone 519 W Skyline Rd from R-1, Low Density Residential District to A, Agricultural District

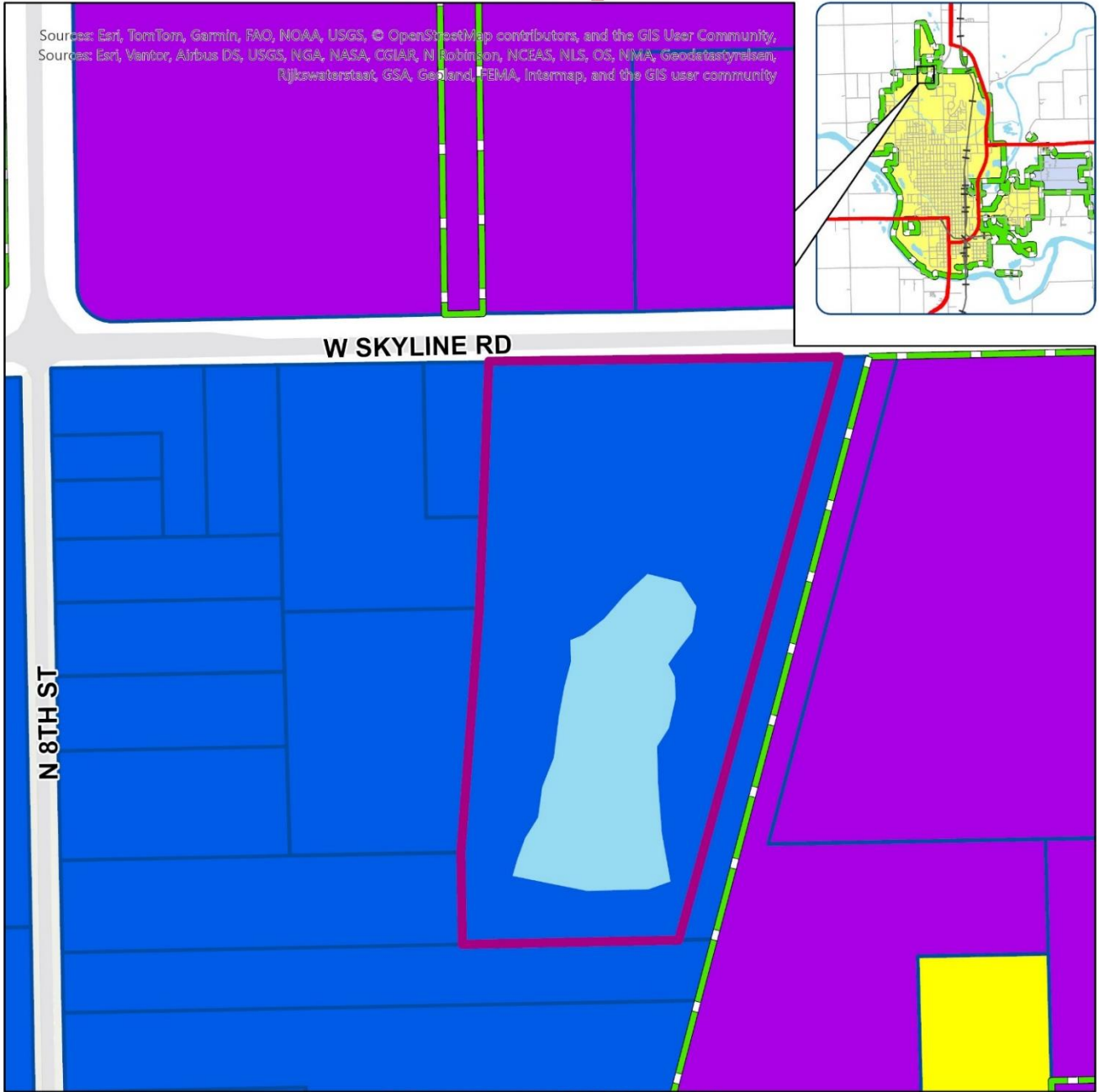
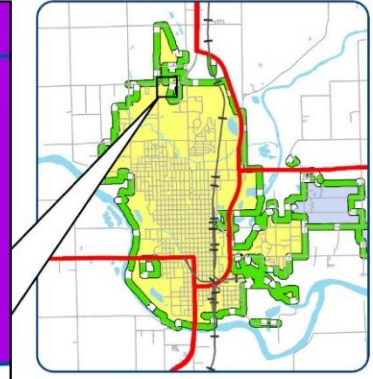
-  Rezone
-  Property Lines

Produced by the City of Arkansas City GIS using the best available data to date. Created: April 14, 2026









# Rezone Request

Sources: Esri, TomTom, Garmin, FAO, NOAA, USGS, © OpenStreetMap contributors, and the GIS User Community.  
Sources: Esri, Vantor, Airbus DS, USGS, NGA, NASA, CGIAR, N Robinson, NCEAS, NLS, OS, NMA, Geodetastynelsen, Rijkswaterstaat, GSA, Geoland, FEMA, Intermap, and the GIS user community



A request to rezone 519 W Skyline Rd from R-1, Low Density Residential District to A, Agricultural District

-  Rezone
-  Residential
-  Industrial
-  Public
-  Property Lines
-  Future Land Use

Produced by the City of Arkansas City GIS using the best available data to date. Created: April 17, 2026



### Zoning map

## Rezone Request



A request to rezone 519 W Skyline Rd from R-1, Low Density Residential District to A, Agricultural District

-  Rezone
- Zoning Districts
-  R-1, Low Density Residential District
-  R-3, High Density Residential District
-  I-1, Light Industrial District
-  I-2, Heavy Industrial District

Produced by the City of Arkansas City GIS using the best available data to date.  
Created: April 17, 2026



No site plan provided

**Findings**

When a proposed amendment would result in a change of the zoning classification of any specific property, the recommendation of the Planning Commission, accompanied by a copy of the record of the hearing, shall contain statements as to the present classification, the classification under the proposed amendment, the reasons for seeking such reclassification, a summary of the facts presented, and a statement of the factors upon which the recommendation of the Planning Commission is based, using the following guidelines. Note that all references to agriculture in this report also include associated residential uses.

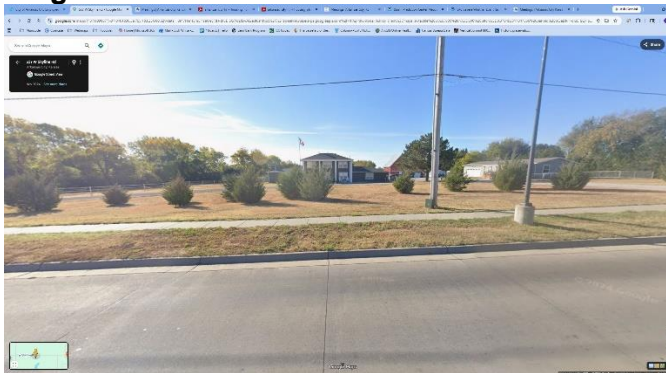
**1. Whether the change in classification would be consistent with the intent and purpose of these regulations.**

The surrounding area is comprised of residential and industrial uses. It is the intent of the 'A' District to preserve and protect agricultural resources. The district is not intended to serve the homeowner who lives on a small suburban lot but is designed to accommodate agricultural operations on substantial acreage. Uses that might have nuisance characteristics, if intermingled in developed residential areas, are permitted on the basis that they are no more offensive than normal agricultural uses. The change in classification would be consistent with the intent and purpose of these regulations.

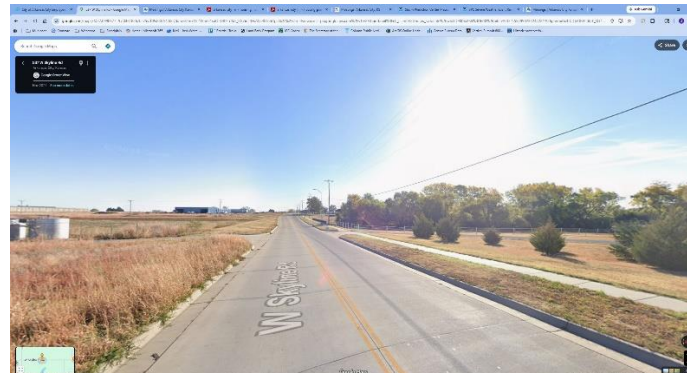
**2. The character and condition of the surrounding neighborhood and its effect on the proposed change.**

The surrounding area is comprised of residential and industrial uses. The change in zoning should not affect the character of the surrounding neighborhood.

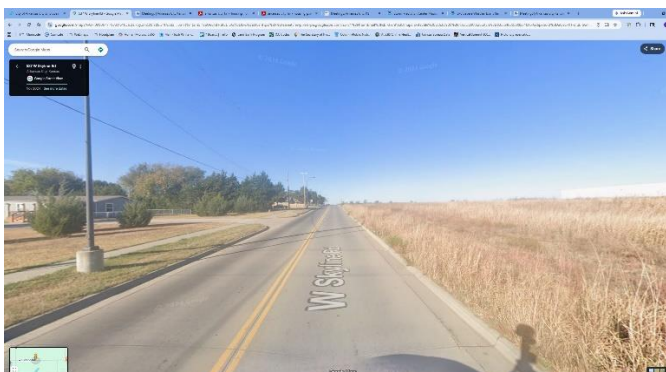
**Neighborhood Photos**



Subject Property. Google Streetview from November 2024



Looking East along Skyline Rd. Google Streetview from November 2024.



Looking West along Skyline Rd. Google Streetview from November 2024.

**3. Whether the proposed amendment is made necessary because of changed or changing conditions in the area affected, and, if so, the nature of such changed or changing conditions.**

The area is not experiencing changing conditions that would make the proposed change necessary.

**4. The current zoning and uses of nearby properties, and the effect on existing nearby land uses upon such a change in classification.**

The properties surrounding the site are residential and industrial. The proposed use is agricultural use which is normally compatible with residential uses. The change in classification would be compatible with the nearby properties.

**5. Whether every use that would be permitted on the property as reclassified would be compatible with the uses permitted on other property in the immediate vicinity.**

The proposed change would allow agricultural uses with less restrictions than those of residential districts. This includes the allowance for additional fowl as well as greenhouses, nurseries and stands for the retail sale of agricultural products or commodities raised on the premises.

**6. The suitability of the applicant's property for the uses to which it has been restricted.**

The property is currently zoned for residential use. The area is suitable for residential use but due the larger size of this lot and its long-term agricultural use, the 'A' district may be more appropriate for the property.

**7. The length of time the subject property has remained vacant or undeveloped as zoned.**

The subject property is not vacant.

**8. Whether adequate sewer and water facilities, and all other needed public services exist or can be provided to serve the uses that would be permitted on the property if it were reclassified.**

Adequate sewer and water facilities are already present at the site, and no enhancements would be needed.

**9. The general amount of vacant land that currently has the same zoning classification proposed for the subject property, particularly in the vicinity of the subject property, and any special circumstances that make a substantial part of such vacant land available or not available for development.**

There is very little available land with the city limits suitable for agricultural uses.

**10. Whether the proposed amendment would be in conformance to and further enhance the implementation of the City's Comprehensive Plan.**

The Future Land Use portion of the Comprehensive Plan designates this property as residential as that was the use in 2014 when the maps were originally drawn. The use remained residential in 2022 when the maps were updated. There is a goal in Chapter 7 of the Comprehensive Plan to "Encourage easy access to healthy foods" and an action relating to promoting urban agricultural as well as produce stands and community gardens. This change doesn't necessarily assist the community with that goal, but the opportunity is there.

- 11. Whether the relative gain to the public health, safety, and general welfare outweighs the hardship imposed upon the applicant by not upgrading the value of the property by such reclassification; and,**

The proposed project should not affect public health (other than the opportunity as noted in 10) and should not negatively affect the safety or general welfare of the public.

- 12. Such other factors as the Planning Commission may deem relevant from the facts and evidence presented in the application.**

- 13. Recommendations of professional staff.**

It is the recommendation of staff that the requested rezoning R-1 to A be approved based on the following conclusions:

- The use of the property has long been agricultural
- The proposed change should not negatively impact the neighborhood
- The proposed change has an opportunity to have a positive effect on public health



# Planning Commission Agenda Item

**Meeting Date:** 6/9/2026

**From:** Josh White, Community Development  
Director

**Item:** Bylaws

**Purpose:** Discuss the bylaws and suggest changes as appropriate.

**Background:**

At the May meeting, the bylaws were discussed focusing on voting members. The concern raised involved whether the growth area members should be voting members. Staff reached out to other communities and the League of Kansas Municipalities. Most comments received stated they had never had this discussion before. The League noted that the statute (K.S.A. 12-744) that requires the Planning Commission to have members from the Growth Area does not consider them ex-officio members but otherwise didn't find a specific prohibition against removing voting privileges. This statute has never been tested in this manner to their knowledge. They did advise against the proposed change partly because extraterritorial jurisdiction has been challenged in the Legislature recently and such action could reinforce the reasons for opposition to it. For this reason, while staff understand the concerns of the Planning Commission, it is advised to leave voting privileges intact for Growth Area members.

**Action:**

Hold a discussion on the bylaws and recommend changes as appropriate.

**Attachments:**

Bylaws

K.S.A. 12-744

Zoning Article 25

## BYLAWS OF

### ARKANSAS CITY PLANNING COMMISSION/BOARD OF ZONING APPEALS

#### **ARTICLE I PURPOSE AND ORGANIZATION**

SECTION 1. The purpose of the Arkansas City Planning Commission, hereafter referred to as "Commission" shall be those set forth in Article 25 of the City of Arkansas City Zoning Regulations and those powers and duties delegated to the Planning Commission by K.S.A. 12-741 et seq.

#### **ARTICLE II POWERS AND DUTIES OF THE COMMISSION**

SECTION 1. Powers. That said Commission, as herein specified, shall be vested with the following powers and authority, to wit:

The Commission shall have such power and duties as may be prescribed by law from time to time, including but not limited to those responsibilities in K.S.A. 12-741 et seq., as amended, and any local ordinances and resolutions. As a primary function, the Commission shall have the responsibility for the preparation, adoption, recommendation and maintenance of a long-range comprehensive plan, pursuant to K.S.A. 12-747 et seq., as amended. Other duties are outlined in Section 25-102 of the Zoning Regulations.

The Commission is hereby designated also to serve as the Board of Zoning Appeals as provided for by K.S.A. 12-759, as amended and shall hereafter be referred to as the "Board"

SECTION 2. Actions. In all formal matters, said Commission shall act by motion, unless a resolution is required by law or governmental regulations. All notices required by law to be given by publication shall be published in the official City newspaper as designated by the City Commission of Arkansas City.

SECTION 3. Oath. Before entering upon the duties of the office, the members of said Commission shall subscribe to an oath of office, if required by the Governing Body appointing them.

#### **ARTICLE III MEETINGS OF THE COMMISSION**

SECTION 1. Regular Meetings. The Commission shall establish its own meeting schedule, and shall designate the time and place of its meetings by majority vote.

SECTION 2. The Secretary or other authorized officer or City staff member shall prepare an agenda of all matters to come before the Commission and timely furnish the same to the Commission members. A copy of the agenda shall be available to the public. Any member of the Commission may cause matters to be placed on the agenda by advising the Secretary no later than 12 o'clock noon on the Tuesday preceding the next regular meeting. The Commission may add agenda items after this deadline with the approval of a majority of the members present.

SECTION 3. Special Meetings. Special meetings may be called by the Chair (or in his or her absence by the Vice Chair) for whatever time and purpose determined. In the event a special meeting is called, notice as to time, date, place and reason for the meeting shall be given to all the members, and all others who have requested such notification, at least 24 hours before the meeting. Announcement of a special meeting at a regular meeting shall constitute notice to those members present. Members not present, and all others, shall be notified by the Secretary.

No matters other than those enumerated in the notice shall be considered at a special meeting.

SECTION 4. Open Meetings. All meetings of the Commission and its Committees shall be open to the public and to attendance by representatives of the news media.

SECTION 5. Recording of Minutes. The Secretary or his or her designee shall keep and maintain complete records of all matters coming before the Commission. The Secretary or his or her designee shall also prepare and maintain permanent minutes which shall be maintained pursuant to the City of Arkansas City document retention schedule.

Copies of the minutes shall be furnished to all persons or bodies making request for same under the Kansas Open Records Act.

SECTION 6. Quorum. A quorum of the Commission shall be required to conduct official business. A quorum shall be defined as the majority of the members of the Commission appointed and qualified at any given time. A quorum of the Board shall be defined in Section 25-201 of the Zoning Regulations. The affirmative vote of a majority of those members present and voting shall be sufficient for the passage of all motions, subject to the provisions of Arkansas City Municipal Code Article III, Boards, Commissions, Committees, Councils, Task Forces.

SECTION 7. Recessed Meetings. Should the business before the Commission not be completed, the Chair may recess the meeting to a specific time, date and place until the matters on the original agenda are resolved.

SECTION 8. Conduct of Meetings. The Chair shall preside at all meetings of the Commission, except in his/her absence, disability or vacancy, the Vice Chair shall preside. In the absence, disability or vacancies of the Chair and Vice Chair, the Secretary shall preside for the purpose of electing an Acting Chairman. The Board shall be governed by its separate officers as provided for in Section 25-201 of the Zoning Regulations.

SECTION 9. Meeting Procedure. All meetings of the Commission and of its committees shall be conducted in accordance with the rules of procedure adopted by the Governing Body of the City of Arkansas City .

- a. The Commission may suspend the rules, provided that the motion to suspend the rules take precedence over other prime motions; provided a motion to suspend the rules shall state the specific purpose and rule to be suspended: provided that no motion to suspend the rules shall be considered approved unless the length of time suspension will be in effect has been specified: provided that the motion to suspend the rules shall

be approved by a majority of the members present; and provided that no suspension of the rules shall be considered permanent.

- b. Presentations by the applicant and his/her representative(s) on zoning, subdivision, and vacation items shall be limited to ten minutes at the beginning of the hearing on that item, plus an additional two minutes for rebuttal at the end of the hearing. Presentations by other members of the audience shall be limited to three minutes. The time for presentations may be extended by up to two minutes by the Chair and may be further extended by the Commission by majority vote. Prerecorded audio-visual presentations shall be included in the time limit of each speaker. All written and visual materials (or copies) used as part of a presentation to the Commission at the hearing shall be retained by the Secretary as part of the official record for that item. Debate from the floor (audience) on any matter may be limited at the discretion of the presiding officer when in his/her opinion such debate is repetitious, contains statements impinging the character, integrity or actions of the Commission or any Commissioner without support of such allegations, or when the course of business due to the number of matters to be considered and/or number of people requesting to be heard will not permit further debate. Each member of the Commission may speak to an issue as many times as may be desired.
- c. All votes on matters conducted as a public hearing shall be by roll call. The Chair shall grant permission upon request for any member to refrain from participating in the discussion and voting on an item when said member advises the Chairman of matters arising under the provisions of Section 10.b below pertaining to that item. Such member shall be recorded as abstaining on the vote but shall be counted for the purposes of determining a quorum.

#### SECTION 10. Conflict of Interest and Ethical Considerations.

- a. Members shall not assist or represent applicants on zoning, subdivision, or vacation applications in the presence of the Commission or Board. Members may appear and speak before the Commission or Board under the provisions of subsection b. where the member owns property or is a prospective purchaser of property included in an application or the member owns property in the statutory notification area of an application.
- b. A member shall not participate or vote on an issue before the Commission or Board if:
  1. the member has a substantial interest on a particular issue as defined by state law;
  2. the member has expressed an individual opinion on the determination of a quasi-judicial matter or otherwise expressed himself or herself in a way that infers an opinion has been formed prior to the Commission's hearing on the matter;
  3. the member owns property or is a prospective purchaser of property included in any application; or

4. the member owns property in the statutory notification area.
- c. Members shall not make presentations to the governing body on a quasi-judicial item prior to the resolution of that item by the governing body, unless the member has abstained from participation on that item or the member has been designated by the Commission to make a presentation.
- d. Prior to any motion on an application (or at the designated declaration time on the agenda), Commissioners shall disclose the nature of any ex parte contacts and of any information obtained through those contacts that may have a bearing on their decisions.

## **ARTICLE IV ORGANIZATION**

### SECTION 1. Officers.

Officers of the Commission and Board shall be the Chair, Vice Chair, and Secretary. The Chair and Vice Chair shall be elected at the first meeting of the year and shall serve for a term of one year. The Chair and Vice Chair shall be members of the Commission or Board. The Secretary shall be the Principal Planner or other person designated by the Commission.

The Chair shall conduct all meetings and business, sign resolutions, subdivision plats, and other official papers and documents.

The Vice Chair shall act in the manner and capacity as the Chair in the absence of the Chair.

The Secretary shall conduct all the business for the Commission as directed and set forth by these bylaws. The Secretary is hereby designated to act as the "responsible agent" for the Commission in handling all Federal, State and local contracts and agreements. The Secretary or a designated appointee shall present Commission actions and recommendations to the Governing Body of the City of Arkansas City. The Secretary of the Commission shall, when required by law, authenticate or attest to by the signature of the Secretary, the signature of the Chair.

### SECTION 2. Committees.

The Chair, with the consent of the Commission, may appoint committees as may be needed to assist in the business of the Commission. The membership of such Committee(s) may consist of Commissioners or others that are not on the Commission. All such committees shall be provided a formal charge and shall report to the Commission its findings and recommendations, unless otherwise directed.

## **ARTICLE V AMENDMENTS TO BYLAWS**

SECTION 1. The Commission may, by a two thirds majority vote thereof, amend these bylaws or any provisions or sections thereof at any time when the same is not in conflict or in contravention of any of the laws of the State of Kansas or ordinances applicable thereto. Provided, however, that notices of the proposed amendments be furnished by the Secretary to the Commission members not less than five (5) days prior to the meeting at which said

amendments are to be considered. A copy of the bylaws will be filed with the Office of the City Clerk of the City of Arkansas City.

The above and foregoing bylaws are hereby adopted as the bylaws of the Arkansas City Planning Commission and Board of Zoning Appeals.

Adopted this 29th day of October, 2019.

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Dr. Scott Rogers  
Planning Commission Chair

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Mary Benton  
Board of Zoning Appeals Chair

ATTEST:

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Josh White  
Planning Commission/Board of Zoning Appeals Secretary,

**12-744. Same; planning commission; creation; membership; vacancies; interlocal agreement, metropolitan or regional planning.** (a) The governing body of any city, by adoption of an ordinance, may create a planning commission for such city and the board of county commissioners of any county, by adoption of a resolution, may create a planning commission for the county. Any such planning commission shall be composed of not less than five members. The number of members of a planning commission may be determined by ordinance or resolution. If a city planning commission plans, zones or administers subdivision regulations outside the city limits, at least two members of such commission shall reside outside of but within three miles of the corporate limits of the city. A majority of the members of a county planning commission shall reside outside the corporate limits of any incorporated city in the county. A county, metropolitan or regional planning commission may serve as the planning commission for a city.

(b) The governing body shall provide by ordinance or resolution for the term of the members of the planning commission and for the filling of vacancies. Members of the commission shall serve without compensation. The governing body may adopt rules and regulations providing for removal of members of the planning commission.

(c) Any two or more cities or counties of this state may cooperate, pursuant to written agreement, in the exercise and performance of planning powers, duties and functions. Any city or county of this state may cooperate, pursuant to written agreement, with any city or county of any other state having adjoining planning jurisdiction in the exercise and performance of any planning powers, duties and functions provided by state law for cities and counties of this state and to the extent that the laws of such other state permit such joint cooperation. Any agreement entered pursuant to this subsection shall be subject to the provisions of K.S.A. [12-2901](#) et seq., and amendments thereto. If such agreement provides for the adoption of a comprehensive plan, the agreement shall include a provision concerning the approval of the comprehensive plan which is consistent with the provisions of K.S.A. [12-747](#).

When two or more of such cities or counties, by ordinance of each city and by resolutions of the boards of county commissioners enter into agreements providing for such joint planning cooperation, there may be established a joint planning commission for the metropolitan area or region comprising that portion of the areas of planning jurisdiction of the cities or counties cooperating jointly as shall be designated by the joint ordinances and resolutions. Such a joint planning commission for the metropolitan area or region may be empowered to carry into effect such provisions of state law relating to planning which are authorized for such joining cities or counties and which each may under existing laws separately exercise and perform.

Any city or county, whenever the governing body of the city or the board of commissioners of the county deems necessary, may join and cooperate in two or more metropolitan area or regional planning commissions. Any regional or metropolitan planning commission in existence on the effective date of this act shall continue in existence, but shall be governed by the provisions of this act.

(d) The provisions of this section shall become effective on and after January 1, 1992.

**History:** L. 1991, ch. 56, § 4; July 1.

**Article 25**  
**Planning Commission | Board of Zoning Appeals**  
**Zoning Administrator and Administrative Variances**

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**Sections:**

- 25-1 Planning Commission Organization and Procedure**
- 25-2 Board of Zoning Appeals Organization and Procedure**
- 25-3 Appeals**
- 25-4 Variances**
- 25-5 Exceptions**
- 25-6 Determinations of Board**
- 25-7 Board Hearings**
- 25-8 Performance Upon Grant of Variance or Exception**
- 25-9 Appeals from Board Decisions**
- 25-10 Administrative Variances**
- 25-11 Zoning Administrator; Powers and Duties**

**SECTION 25-1 PLANNING COMMISSION ORGANIZATION AND PROCEDURE****25-101. Membership and conduct.**

- a. The City of Arkansas City Planning Commission is created in accordance with K.S.A. 12-741 *et seq.* and amendments thereto, and in accordance with Sec. 2-185 *et seq.* of the Arkansas City Municipal Code. The Commission shall consist of nine members. Members shall serve terms of three years.
- b. Membership of the Planning Commission shall at all times include two members who reside outside of the City, but within three (3) miles of the corporate limits of the City. The other seven members shall reside within the corporate limits of the City.
- c. The Commission shall cause a proper record to be kept of its proceedings.
- d. No Planning Commission member shall vote or act on any matter in which the member has a direct or indirect personal or financial interest.

**25-102. Powers and duties.**

- a. The Planning Commission shall approve plans and maps of the whole or any portion of the City and of any land outside of the City which in its opinion bears relation to the planning of the City, and make changes in such plans or maps when it deems the same advisable. Such plans or maps shall show the Commission's recommendation for new streets, alleys, ways, viaducts, bridges, parks, parkways, playgrounds, or any other public grounds or public improvements, and the removal, relocation, widening or extension of such public works then existing with a view to the systematic planning of the City.
- b. The Commission may make recommendations to the City Commission concerning the location of the streets, transportation and communication facilities, public buildings, and grounds.

**25-103. Budget.** In compliance with budgeting deadlines set for all city departments, the Planning Commission shall submit to the City Commission a budget of expenditures for the next fiscal year itemizing the expenses, the amount and purpose. The City Commission shall consider the submitted budget, determine an appropriate budget for the Planning Commission and add it to the general budget of the City.

## **SECTION 25-2 BOARD OF ZONING APPEALS ORGANIZATION AND PROCEDURE**

### **25-201. Membership, officers and meetings.**

- a. The Planning Commission is hereby designated also to serve as the Board of Zoning Appeals as provided for by K.S.A. 12-759, as amended, and hereinafter in this Article will be referred to as the "Board."
- b. The Board shall consist of the seven members of the Planning Commission who reside within the corporate limits of the City. The two members of the Commission who do not reside within the corporate limits of the City shall recuse themselves from any Board proceedings. When a quorum is declared present, all actions of the Board shall be made by a motion and decided by a majority vote of the members present and voting.
- c. The officers of the Board may differ from those of the Planning Commission.
- d. Board meetings may be held separately from a Planning Commission meeting or in conjunction with such a meeting, wherein the Commission may recess or adjourn sine die a portion of its meeting to conduct business of the Board and then reconvene to continue the Commission agenda. The Board shall keep minutes of its proceedings, showing evidence presented, findings of fact by the Board, decisions of the Board and the vote upon each question. Records of all official action of the Board shall be filed in its office and shall be a public record kept separately from the Commission records.

## **SECTION 25-3 APPEALS**

**25-301.** The Board of Zoning Appeals shall have the power to hear and decide appeals when it is alleged there is an error in any order, requirement, decision or determination made by the Zoning Administrator in the enforcement of these regulations.

- a. Appeals to the Board may be taken by the person aggrieved, or by any officer, department or bureau of the government affected by any decision of the Zoning Administrator. Such appeal shall be filed with the Zoning Administrator within thirty (30) days after a ruling has been made by the Zoning Administrator. The Zoning Administrator shall transmit to the chair of the Board all papers constituting the record upon which the action appealed from is taken.
- b. An appeal stays all proceedings in furtherance of the action appealed from, unless the Zoning Administrator certifies to the Board, after the notice of appeal has been filed, that a stay would, in the opinion of the Zoning Administrator, cause imminent peril to life or property.

## **SECTION 25-4 VARIANCES**

**25-401.** The Board of Zoning Appeals shall have the power to authorize in specific cases a variance from the specific terms of these regulations which will not be contrary to the public interest and where, owing to special conditions, a literal enforcement of the provisions of these regulations will, in an individual case, result in unnecessary hardship, provided the spirit of these regulations shall be observed, public safety and welfare secured, and substantial justice done. Such variance shall not permit any use not permitted by the zoning regulations in such district.

- a. The applicant must show that his or her property was acquired in good faith and where by reason of exceptional narrowness, shallowness or shape of this specific piece of property which existed at the time of the effective date of the district zoning regulations, or where by reason of exceptional topographical conditions or other extraordinary or exceptional circumstances that the strict application of the terms of the zoning regulations actually prohibit the use of the property in the manner similar to that of other property in the zoning district where it is located.

- b. Variances from these regulations may be granted in the following instances:
1. To vary from the applicable lot area and width, height, and yard regulations.
  2. To vary from the applicable off-street parking and loading requirements.
- c. In accordance with Section 25-10, a request for a variance may be granted by the Zoning Administrator for variances of 15% or less of the requirement. Requests for variances of greater than 15% of the requirement of the regulation may be granted, upon a finding of the Board that all of the following conditions have been met. The Board shall make a determination on each condition, and the finding shall be entered in the record:
1. The variance requested arises from a condition that is unique to the property in question and is not ordinarily found in the same zone or district; and is not created by action of the property owner or applicant.
  2. The granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents.
  3. The strict application of the provisions of the zoning regulations of which the variance is requested will constitute unnecessary hardship upon the property owner represented in the application.
  4. The variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare.
  5. The granting of the variance desired will not be opposed to the general spirit and intent of the zoning regulations.
- d. In granting a variance, the Board may impose such conditions, safeguards and restrictions upon the premises benefited by the variance as may be necessary to reduce or minimize any potentially injurious effect of such variance upon other property in the neighborhood, and to carry out the general purpose and intent of these regulations.

### SECTION 25-5 EXCEPTIONS

**25-501.** The Board of Zoning Appeals shall have the power to grant exceptions to the provisions of these zoning regulations, when expressly authorized to do so by these regulations in a particular zoning district or districts.

- a. In no event shall exceptions to the provisions of the zoning regulations be granted where the exception contemplated is not specifically listed in the zoning regulations. The Board shall not grant an exception when the conditions established by this section are not found to be present.
- b. The Board shall not grant an exception unless it shall, in each specific case, make specific written findings of fact directly based upon the particular evidence presented to it, that support conclusions that:
  1. The proposed exception complies with all applicable provisions of these regulations, including intensity of use regulations, yard regulations and use limitations.
  2. The proposed exception at the specified location will not be adverse to the welfare or convenience of the public.
  3. The proposed exception will not cause substantial injury to the value of other property in the neighborhood in which it is to be located.

**25-502. Exceptions Allowed.** The following exceptions are expressly allowed to be granted by the Board of Zoning Appeals when such is consistent with Section 25-501:

- a. Where a use district boundary line crosses a lot, a use of either classification on the whole lot.
- b. Off-street parking areas, adjacent to or at a reasonable distance from the premises on which parking areas are required by the parking regulations of these regulations where practical difficulties, including the acquisition of property, or undue hardships are encountered in locating such parking areas on the premises.
- c. Special Yard Exceptions: The following yard exceptions may be approved by the Board:
  1. An exception in the yard regulations on a lot where an adjacent lot has a front, side or rear yard that does not conform with such yard regulations.
  2. A yard exception on a corner lot, or lots opposite or adjoining permanent open spaces, including parks and playgrounds.
  3. An exception in the depth of rear yard on a lot in a block where there are nonconforming rear yard conditions.
  4. An exception where there are irregularities in depths of existing front yards on a street frontage on the side of a street between two intersecting streets, so that any one of the existing depths shall, for a building, hereafter constructed or extended, be the required minimum front yard depth.

## **SECTION 25-6 DETERMINATIONS OF BOARD**

**25-601.** In exercising the foregoing powers, the Board of Zoning Appeals may reverse or affirm, wholly or partly, or may modify any order, requirements, decision or determination, and to that end shall have all the powers of the Zoning Administrator from whom the appeal is taken, may attach appropriate conditions, and may issue or direct the issuance of a zoning certificate.

## **SECTION 25-7 BOARD HEARINGS**

**25-701.** The Board of Zoning Appeals shall hold a public hearing on each application for an appeal, variance or exception. On all applications, notice of time and place of the public hearing shall be published once in the official City newspaper not less than twenty (20) days prior to the date of such public hearing. In addition, for all applications for a variance or exception all property owners within two hundred feet (200') of the subject property (1,000 feet when the subject property is adjacent to the City limits) shall be notified by mail of such public hearing, and be given an opportunity to attend and be heard regarding such application for a variance or exception.

### **25-702.**

- a. The procedure for requesting a hearing before the Board of Zoning Appeals is as follows:
  1. All applications to the Board shall be in writing on forms provided by the Zoning Administrator. Applications shall be completed in their entirety and filed in the office of the Zoning Administrator with all supporting data. The Zoning Administrator may require any legal description submitted as part of an application to be certified by a registered surveyor, and shall determine whether the filed application is complete.
  2. The Zoning Administrator may either create the required ownership list or may require an application to be accompanied by an ownership list, certified by a registered abstractor, listing the legal description and the names and addresses of the owners of all property located within two hundred (200) feet of the boundaries of the property included in the application. Whenever any portion of the property that is the subject of the application is within two hundred feet (200') of the City limits, the applicant shall provide such an ownership list for the property within one thousand feet (1,000') of the boundaries of the property included in the application.

3. The Board shall fix a reasonable time for the hearing of an application and notice of the time, place and subject of each hearing shall be published in the official City newspaper at least twenty (20) days prior to the date fixed for the public hearing. A copy of the notice of public hearing shall be sent to each party of interest and each person on the ownership list fifteen (15) days prior to the hearing.
  4. An application shall be accompanied by the filing fee required by the City Commission. A separate filing fee shall be required for each application.
- b. In addition to the above requirements, certain applications must meet additional requirements as follows:
1. Appeals.
    - (a) An application for an appeal shall be filed within thirty (30) days after a ruling has been made by the Zoning Administrator.
    - (b) A copy shall be submitted of the order, requirement, decision or determination of the Zoning Administrator which the applicant believes to be in error.
    - (c) A clear and accurate written description of the proposed use, work or action in which the appeal is involved, and a statement justifying the applicant's position.
    - (d) Where necessary, a plot plan, drawn to scale, showing existing and proposed plans for the area in question shall be submitted.
  2. Variances.
    - (a) The applicant shall submit a statement, in writing, justifying the variance requested, indicating specifically the enforcement provisions of the zoning regulations from which the variance is requested, and outlining why it is believed that this application will meet each of the five (5) conditions as set out in Section 25-401(c).
    - (b) The applicant shall submit a sketch drawn to scale and showing the lot or lots included in the application; the structures existing thereon; and the structures contemplated necessitating the variance requested. All appropriate dimensions and any other information that would be helpful to the Board in consideration of the application should be included.
  3. Exceptions.
    - (a) The applicant shall submit a statement in writing justifying the exception applied for, and indicating under which article and section of the zoning regulations the Board is believed to have jurisdiction.
    - (b) The applicant shall prepare and submit at the time of filing the application a plot plan drawn to scale, showing all existing and proposed structures, property lines with dimensions, parking spaces, points of ingress and egress, driveways, and any other information that would be helpful to the Board in consideration of the application.

## **SECTION 25-8 PERFORMANCE UPON GRANT OF VARIANCE OR EXCEPTION**

### **25-801.**

- a. In making any decision varying or modifying any provisions of the zoning regulations or in granting an exception to the district regulations, the Board of Zoning Appeals shall impose such restrictions, terms, time limitations, landscaping, screening and other appropriate safeguards as needed to protect adjoining property.

- b. The Board may specify a time limit for the completion of such required improvements and, in the event the improvements are not completed within the specified time, the Board may declare the granting of the application null and void.
- c. After the Board has approved an exception or granted a variance, the exception or variance so approved or granted shall lapse after the expiration of one year if no substantial construction or change of use has taken place in accordance with the plans for which such exception or variance was granted, and the provisions of these regulations shall thereafter govern.

### **SECTION 25-9 APPEALS FROM BOARD DECISIONS**

**25-901.** In exercising its powers, the Board of Zoning Appeals, in conformity with the provisions of this article, 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 officer from whom the appeal is taken; may attach appropriate conditions and may issue or direct the issuance of a permit. Any person, official or governmental agency dissatisfied with any order or determination of the Board may bring an action in the District Court of Cowley County, Kansas, to determine the reasonableness of any such order or determination within thirty (30) days of the rendering of the order or determination by the Board, in accordance with state law.

### **SECTION 25-10 ADMINISTRATIVE VARIANCES**

#### **25-1001.**

- a. Except where variances are expressly prohibited by these Regulations, any requirement under these Regulations which may be varied from in accordance with the provisions of Section 25-4 may be submitted to the Zoning Administrator with a request for an administrative variance.
- b. No application for an administrative variance may reduce the requirement sought to be varied from by an amount greater than 15%.
- c. The Zoning Administrator may approve, disapprove, modify and approve, or refer directly to the Board of Zoning Appeals an application for administrative variance.
- d. Any final decision by the Zoning Administrator on an application for an administrative variance may be appealed to the Board.

### **SECTION 25-11 ZONING ADMINISTRATOR; POWERS AND DUTIES**

#### **25-11.**

- a. The Zoning Administrator is the City's officer responsible for carrying out the duties and responsibilities of administering the City's zoning and subdivision regulations. In general, the Zoning Administrator shall inspect structures and uses of land to determine compliance with the provisions of such regulations and any application made pursuant to those regulations.
- b. The Zoning Administrator shall:
  1. Compile and maintain the official text of the City's zoning and subdivision regulations, and the zoning maps and any amendments thereto.
  2. Receive, file, review, make recommendations on and forward for action all applications for, and appeals of, rezonings, conditional use permits, subdivision plats, and variances. The Zoning Administrator shall have such authority as is necessary to request and acquire from an applicant or appellant information needed for the processing of such applications and appeals, including land surveys.
  3. Maintain zoning and subdivision administration records.

4. Issue permits and review permit applications made pursuant to the City's zoning and subdivision regulations.
5. Approve or disapprove requests for administrative variances in accordance with Section 25-10 of these regulations.
6. Provide such technical and secretarial assistance as is required by the Planning Commission, Board of Zoning Appeals and City Commission, and other boards and commissions in the exercise of their duties relating to these regulations.
7. Advise the Planning Commission and City Commission on the adequacy of the comprehensive plan and zoning and subdivision regulations, and at least annually make recommendations to the Planning Commission concerning the same.
8. Ensure that public notice is provided for proceedings related to applications made pursuant to these regulations.
9. Advise the City Attorney of possible violations of these regulations.