



**AGENDA
PLANNING COMMISSION/
BOARD OF ZONING
APPEALS/ AIRPORT ZONING
COMMISSION**



**7651 E. Central Park Ave, Bel Aire, KS
December 11, 2025 6:30 PM**

I. Call to Order

II. Roll Call

Deryk Faber ____ Phillip Jordan ____ Brian Mackey ____

Paul Matzek ____ Dee Roths ____ Brian Stuart ____

III. Pledge of Allegiance to the American Flag

IV. Announcements

V. Consent Agenda

A. **Approval of Minutes from Previous Meeting**

Action: Motion to approve the minutes of November 13, 2025.

Motion _____ Second _____ Vote _____

VI. Planning Commission Business

A. **SP-25-01: Special Use permit request in the City to allow a group-home limited use in one-half of a two-family (duplex) unit, on a property in a Garden and patio homes, townhouses and condominiums (R-5) Zoning District, generally located at North 53rd Street and Toben Road.**

Open Hearing

Close Hearing

Action: Please choose one of the following (4) options.

1. Having considered the evidence at the hearing and the factors to evaluate the application, I move we recommend to the City Council that the request for a Special Use permit, to allow a group-home limited use in one-half of a two-family (duplex) unit, in a R-5 Zoning District,

generally located at North 53rd Street and Toben Road, in SP-25-01 be (APPROVED), based on the following findings: _____, as recorded in the summary of this hearing (WITHOUT CONDITIONS / WITH THE FOLLOWING CONDITIONS ATTACHED TO THIS RECOMMENDATION).

2. Having considered the evidence at the hearing and the factors to evaluate the application, I move we recommend to the City Council that the request for a Special Use permit, to allow a group-home limited use in one-half of a two-family (duplex) unit, in a R-5 Zoning District, generally located at North 53rd Street and Toben Road, in SP-25-01 be (MODIFIED AND APPROVED) based on the following findings: _____, as recorded in the summary of this hearing, (WITHOUT CONDITIONS / WITH THE FOLLOWING CONDITIONS ATTACHED TO THIS RECOMMENDATION).

3. Having considered the evidence at the hearing and the factors to evaluate the application, I move we recommend to the City Council that the request for a Special Use permit, to allow a group-home limited use in one-half of a two-family (duplex) unit, in a R-5 Zoning District, generally located at North 53rd Street and Toben Road, in SP-25-01 be (DISAPPROVED) based on the following findings: _____, as recorded in the summary of this hearing.

4. I move that Case No. SP-25-01 be tabled until _____(date), _____(month) at 6:30pm, for the following reason(s): _____.

Motion _____ Second _____ Vote _____

B. Overview of Annexation Process

Action: No action required; for discussion only.

C. Recess the Planning Commission and Convene the Airport Zoning Commission.

Action: Motion to recess the Planning Commission and Convene the Airport Zoning Commission.

Motion _____ Second _____ Vote _____

VII. Airport Zoning Commission Business

A. Call to Order

B. Roll Call

Phillip Jordan _____ Dee Roths _____ Deryk Faber _____
Paul Matzek _____ Brian Mackey _____ Brian Stuart _____

C. Consent Agenda: Approval of Meeting Minutes

No meeting minutes to approve.

D. Consideration of Airport Zoning Regulations and A Preliminary Report in Accordance with K.S.A. 3-705.

Open hearing
Close hearing

Action: Please choose one of the following (3) options.

1. Having considered the evidence at the hearing, I move we (APPROVE / MODIFY AND APPROVE) the proposed Preliminary Report of the Airport Zoning Commission and schedule it for consideration as a Final Report at another public hearing, at the next regular meeting of the Airport Zoning Commission.

2. Having considered the evidence at the hearing, I move we (DISAPPROVE) the proposed Preliminary Report of the Airport Zoning Commission.

3. I move that the proposed Preliminary Report of the Airport Zoning Commission be tabled until _____(date), _____(month) at 6:30pm, for the following reason(s):
_____.

Motion _____ Second _____ Vote _____

E. Adjourn Airport Zoning Commission and Convene the Board of Zoning Appeals

Action: Motion to adjourn the Airport Zoning Commission and Convene the Board of Zoning Appeals.

Motion _____ Second _____ Vote _____

VIII. Board of Zoning Appeals Business

A. Call to Order

B. Roll Call

Phillip Jordan ____ Dee Roths ____ Deryk Faber ____
Paul Matzek ____ Brian Mackey____ Brian Stuart____

C. Consent Agenda: Approval of Minutes from Previous Meeting

Action: Motion to approve the minutes of November 13, 2025.

Motion _____ Second _____ Vote _____

D. Adjourn Board of Zoning Appeals and Reconvene the Planning Commission

Action: Motion to adjourn the Board of Zoning Appeals and Reconvene the Planning Commission.

Motion _____ Second _____ Vote _____

IX. Approval of the Next Planning Commission Meeting Date.

Action: Motion to approve the date of the next meeting: January 8, 2026, at 6:30 p.m.

Motion _____ Second _____ Vote _____

X. Current Events

A. Upcoming Agenda Items

- a. 2025 Updated Zoning Map
- b. Robert's Rules Training

B. Upcoming Events

- a. City Hall closed for Christmas- December 24 – 25
- b. City Hall closed for New Year's Day- January 1

XI. Adjournment

Action: Motion to Adjourn.

Motion _____ Second _____ Vote _____



MINUTES PLANNING COMMISSION/BOARD OF ZONING APPEALS

7651 E. Central Park Ave, Bel Aire, KS

November 13, 2025, 6:30 PM



I. Call to Order Chairman Phillip Jordan called the meeting to order at 6:30 p.m.

II. Roll Call

Chairman Phillip Jordan, Vice-Chairman Deryk Faber and Commissioners Brian Mackey, Brian Stuart, and Paul Matzek were present in person. Commissioner Dee Roths was absent. Quorum was present.

Also present in person was Paula Downs, Secretary. Maria Schrock, City Attorney was present by phone.

III. Pledge of Allegiance to the American Flag

Chairman Phillip Jordan led the pledge of allegiance.

IV. Consent Agenda

A. Approval of Minutes from Previous Meeting.

Motion: Chairman Jordan moved to approve the minutes of the October 9, 2025, meeting. Vice-Chairman Faber seconded the motion. *Motion carried 5-0.*

V. Announcements:

Paula Downs, Secretary provided a reminder about the Volunteer Dinner to be held on November 18 at 6:00 at City Hall.

VI. Planning Commission Business

A. VAC-25-03: Vacation request in the City to vacate a portion of a drainage and utility easement and platted joint access easement on Lots 1-3, Block B, Lycee Addition, generally located at the northeast corner of Rock Road and Lycee St.

The Lycee development was recently before the Planning Commission as a zoning case in August 2025. The case was to move to a required PUD case. The Commission approved the

case with the conditions listed on the staff report. The zoning case went before the City Council and was approved.

The current case relates to the vacation of easements that are on the property. The case information was sent to the public utilities for review and approval and they had no concerns or objections and confirmed they have nothing in the easements. Staff is recommending approval.

The public hearing notification was published, and the city notified all the surrounding property owners. The city has received no inquiries or concerns. Approval of the vacation case will allow the development to move forward, and the subject easements are not being utilized by the utilities.

Commission appreciated the map that was shaded to show the areas requested to be vacated making it easy to see.

Chairman confirmed the following:

- No commissioners disqualified themselves on the case
- Official notice for the hearing was published on October 23, 2025- Notices were mailed to property owners of record in the area on October 23, 2025. The records shows that notification letters and publication of the case was done 20 days in advance of the hearing. Chair declared that proper notification was given.
- Chair asked Commissioners if anyone received any ex-parte communication verbal or written prior to the hearing. All Commissioners said no.

Thomas Joyce, Baughman Co., appeared as the agent for the applicant. He agreed with the staff comments. Mr. Joyce stated that as the development plan changed the easements are no longer needed and actually hinder development so that is why the vacation case was brought to the Commission.

Commission acknowledged that it was a well laid out site plan.

Commission asked about the need for the vacation case since they had already approved the development plan at their August meeting. Secretary stated that the previous case was to remedy the zoning issues which required that they have a PUD case and did not capture the vacation of the easements. Mr. Joyce further stated that the easements appear on the plat and even if the zoning uses change it does not address the need to vacate the easements. The proper channels to get rid of the easements is a vacation case.

Chairman opened the public hearing- no individuals were there to speak. Secretary confirmed that no written communications had been received. Chairman closed the Public Hearing.

Commission Reviewed the criteria and are satisfied and have no concerns on the following:

1. Commission confirmed that notice of petition to vacate and notice of the public hearing have been given in accordance with state law

2. Commission confirmed that no private rights will be injured or endangered if the vacation is granted
3. Commission confirmed that the public will suffer no loss or inconvenience if the vacation is granted
4. Commission confirmed that the vacation should be granted

City attorney confirmed that when discussing the criteria that the Commission can state that there are no concerns that the criteria has been met for the case. Each Commissioner is not required to discuss individually each of the criteria.

Motion – Commissioner Matzek stated having considered the evidence at the hearing and the factors to evaluate the application, I move we recommend to the City Council that the request for vacation of a portion of a drainage and utility easement and platted joint access easement on Lots 1-3, Block B, Lycee Addition, in VAC-25-03 be Approved, based on the following findings: the four review criteria discussed, as recorded in the summary of this hearing. Vice-Chairman Faber seconded the motion. ***Motion carried 5-0.***

B. Public Hearing on the Consideration of a Resolution to Adopt the Bel Aire 2035 Comprehensive Plan

The Secretary stated that the comprehensive plan was before the Planning Commission on August 14, 2025, and was approved. The plan was placed on the City Council's September 2, 2025, meeting. The City Council discussed several items they felt needed to be modified before approving and the plan was sent back to the Planning Commission.

Between September 2, 2025 and this meeting, sections of the comprehensive plan were being updated. In the agenda packet there is a report from Mayor Benage which he stated at the September 2, 2025, meeting he would develop and send to staff. The Mayor's report is in the agenda packet, and it describes 17 items to address. Staff and PEC met with the Mayor and many of items in the report did not warrant a change, but the ones that did are listed in the staff report and the updated plan pages are also included in the agenda packet for commission reference. Staff did not include the full comprehensive plan in the printed packets, but it was included in the published packet.

The Secretary went through all eight (8) key updates made to the plan listed in the staff report and referenced each page of the comprehensive plan affected:

1. Page 15 of the plan includes flexible language to the goal of creating a Parks, Recreation, and Trails Advisory Board. There is a footnote on the page that states that the goal is intended to be flexible in nature and instead of a new membership being created, an existing board/committee could assume additional duties. The Mayor felt there was too much confinement to create another board.
2. Property located south of the railroad tracks between Rock Road and Webb Road was revised on Map 3-2 | Future Land Use Map (page 27) from "Traditional Neighborhood" to "Industrial & Logistics Center". Complimentary map revisions were made on pages 33 and 45. Revised each page to show flexibility on how properties could be used in those areas. Modifications were made on pages 33 and 45.

3. The Key Findings on page A-3 were revised. Language was updated:
 - a. Previous language stated: "Furthermore, this percentage can also indicate that the critical mass of residential uses has not been met to satisfy the private sector selection criteria for non-residential development within the City."
 - b. Revised the language to state: "It is recommended that the City explore marketing opportunities that exist based on the current demographics and needs of Bel Aire, in addition to working with the private sector to better understand key metrics to increase the amount of commercial amenities and services available."
4. Updated Map A-3 - Community Facilities & Services (page A-9) by removing the language referencing the Kansas Heart Hospital and Heartland Cardiology. Language was replaced with information on the "Wesley Medical Center operates a 99-bed hospital offering emergency care, cardiac, orthopedic, and bariatric services at 2610 N. Woodlawn Blvd." was added to page A-8. This language made the description of the nearby asset more robust.
5. Updated Map A-6 - Traffic Volume (page A-15) to reflect latest 2025 data from KDOT. The current data from Kansas Department of Transportation was included in the report.

Secretary reminded the Commission that the maps and other data were created in late 2023 early 2024 and at the time some of the data was not updated or available and now it is so the plan was updated.

6. The location of the future Skyview Park has been added to Map A-4 - Existing Park Needs (page A-11). The Skyview Developer provided the city with three lots to be used as a new park so that reference was added to the map to show the location in Skyview.
7. Replace 2022 American Community Survey data with 2023 American Community Survey data where applicable within Appendix A: Community Assessment.

Secretary stated that assessment information and data in the plan was put together in late 2023 early 2024. The data is a year behind so at the time we were using 2022 data. We completed the assessment before the next year's data was released. We have now updated it to 2023 American Community Survey data which was available in December 2024. The 2024 data will not be released until December 2025. We opted to utilize the current data available as of September 2025, which is the 2023 data and not wait until December to utilize 2024 data.

8. Added footnote to page A-28 indicating that the adopted mill level at the time of the analysis was 43.000, with the note that the mill levy adopted for 2026 is 41.000. At the time of putting together the data analysis for the plan, the mill levy was at 43.000, however, currently the mill levy for 2026 was approved at 41.000. Made a footnote indicating this so there would be no confusion about what the data was based on.

Staff is recommending approval. Staff confirmed that Mayor Benage did see the updated plan and had three clarification questions which were responded to.

Commission questioned why data takes so long to be available in this day and age. Staff stated that the way data is collected, analyzed and made available takes a lot of time. The data used for the plan's assessment was just about timing. Staff indicated that waiting until December 2025 for the 2024 data may not result in significant differences from the 2023 data being used. Commission was reminded that this is a planning document and if changes occur that impact our community we would be responding to those changes as they happen over the course of the ten-year planning horizon. The plan will be reviewed every year, and action steps will be evaluated as changes occur. The last plan implemented was the Master Growth Plan created in 2018.

Chairman opened the public hearing, and nobody was present to speak on the plan. The Chairman closed the public hearing.

Staff reminded the Commission that the data was accurate at the time the assessment section of the plan was developed. The assessment was the first part of the plan developed. The next phase was engagement and development of goals and writing the plan. Once the assessment was completed it was not revised or updated. It was about timing, and the Mayor requested that the data be updated to the most recent available in September 2025.

Commission commented that they were impressed with the Mayor's attention to detail.

Motion – Vice-Chairman Faber made a motion to Adopt the Resolution to Adopt the Bel Aire 2035 Comprehensive Plan As Presented and recommend that the Governing Body Approve the Plan by publication of an Ordinance per K.S.A. 12-747(b). Chairman Jordan seconded the motion. **Motion carried 5-0.**

C. **Approval of Planning Commission 2026 Meeting Schedule:**

Staff presented the 2026 Planning Commission meeting schedule and stated that there is six weeks between the application closing date and the Planning Commission meeting dates listed. The schedules provides staff two weeks to review and then 20 days for publication. Schedule closely follows the dates established in 2025.

Motion: Chairman Jordan made a motion to approve the Planning Commission 2026 Meeting Schedule. Commissioner Mackey seconded the motion. **Motion carried 5-0.**

D. **Election of Planning Commission Chair, December 2025 to December 2026**

There was no discussion on this item. Commissioner Matzek started with a motion.

Motion: Commissioner Matzek made a Motion to appoint Phillip Jordan as Chair of the Planning Commission, term ending December 2026. Vice-Chairman Faber seconded the motion. **Motion carried 5-0.**

E. **Election of Planning Commission Vice-Chair, December 2025 to December 2026**

There was no discussion on this item. Commissioner Mackey started with a motion. Vice-Chairman Faber was asked if he was good with that and he confirmed yes.

Motion: Commissioner Mackey made a Motion to appoint Deryk Faber as the Vice-Chair of the Planning Commission, term ending December 2026. Commissioner Stuart seconded the motion. ***Motion carried 5-0.***

F. Recess the Planning Commission and Convene the Board of Zoning Appeals.

Motion: Vice-Chairman Faber made a motion to recess the Planning Commission and convene the Board of Zoning Appeals. Chairman Jordan seconded the motion. ***Motion carried 5-0.***

Board of Zoning Appeals Meeting

I. **Call to Order** Chairman Phillip Jordan called the meeting to order at 7:05 p.m.

II. **Roll Call**

Chairman Phillip Jordan, Vice-Chairman Deryk Faber and Commissioners Brian Mackey, Brian Stuart, and Paul Matzek were present in person. Commissioner Dee Roths was absent. Quorum was present.

Also present in person was Paula Downs, Secretary. Maria Schrock, City Attorney was present by phone.

III. **Consent Agenda**

A. **Approval of Minutes from Previous Meeting**

No previous meeting minutes, this is the first meeting of the Board of Zoning Appeals. Commissioners will see some of the same meeting agenda items as those in the Planning Commission agenda, including the call to order and roll call in case someone leaves before the board of zoning appeals meeting portion. There will be a consent agenda section for approval of minutes which will require a Board of Zoning Appeals meeting even if there are no cases on the agenda. The Chairman will be required to open and close a Board of Zoning Appeals meeting if there are items that need to be heard or minutes approved. If there are no agenda items the meeting will not need to be opened.

IV. **Board of Zoning Appeals Business**

A. **Consideration of a Resolution to Adopt the Bylaws of the Board of Zoning Appeals.**

Staff stated that Vice Chairman Faber provided a detailed consideration list for ways to update the bylaws. The detailed list is included in the staff report. Staff provided responses related to why the change was or was not included in the Bylaw

document. The Board of Zoning Appeals can make update requests to the document which will require reviewing those changes against the Planning Commission Bylaws and amending them. Requests to update the bylaw document can be made at a later meeting date if the Board of Zoning Appeals wants changes. The same changes may also be required to be made to the Planning Commission Bylaws.

The considerations provided by Vice-Chairman Faber are included in the staff report under current discussion section:

Article 1: Creation and Membership:

1. Membership Minimum- Staff read the item as presented in the staff report and further commented that currently no changes are required because the Board of Zoning Appeals (BZA) will follow the membership language set out in the Planning Commission Bylaws. There is currently no language in that document that provides language about an extended vacancy. Updates would need to be made in the Planning Commission Bylaws since the BZA follows the Planning Commission membership. The Board can request that this update be made.
2. Attendance Consistency- Staff read the item as presented in the staff report and further commented that the three consecutive regular meeting language accurately reflects what is in the Planning Commission Bylaws and because the Planning Commission and BZA are the same members, the same attendance requirements are reflected in the BZA bylaw document. Commissioner Faber was concerned about someone attending the Planning Commission Meeting portion but then leaving during the BZA meeting portion. A Commissioner could meet the requirements of attending the Planning Commission Meeting but not the BZA meeting. Secretary stated that roll call will capture attendance for each meeting and staff would know if someone failed to attend a Planning Commission and/or a BZA meeting three consecutive times. Commissioner Faber stated there may need to be clarification because it was unclear if the three consecutive absences were for both meetings or each individual meeting. Staff confirmed that it will be three consecutive meetings for either meeting.
3. Conflict of Interest Cross-Reference: Staff read the item as presented in the staff report and further commented that the bylaws are set up with the separation of language. A separation of language by section makes it easier for staff and the BZA to locate information in the bylaws if the language is in its appropriate section. If we have a quorum question we would go to that section and everything we need would be there. Adding cross-referencing language could cause confusion and when updating bylaws something might be missed if it's also in another section.

Article 2- Officers and Duties

1. Deleting the meeting recording and updating language in line with the records retention policy- Staff read the item as presented in the staff report and further commented that the reason the meeting recording is deleted is because we are providing detailed meeting minutes after each meeting. The detailed meeting minutes is the record for the meeting and not the recording. The records retention policy does not require us to keep the

recording, but we did shift to producing detailed meeting minutes that are then approved by the BZA and signed.

2. Election Month- The Secretary confirmed that the elections should be done in October and it was missed in October which is why it was placed on the November agenda. Moving forward it will occur as set out in the Bylaws in October. Elections do not need to be moved to November.

Simple Definitions Section- Secretary stated that this would be a good project to implement but there may be a need for many definitions to be developed and included. Secretary would like to research this option to ensure that the Planning Commission Bylaws and BZA Bylaws match and that all definitions are included. Secretary stated it would be a good project for the future.

Electronic/Remote Meeting Flexibility- Currently the City doesn't have everything in place to for electronic remote meeting attendance. We have had a Commissioner attend by phone. If remote attendance was extended to the public, we would need to develop a process and address technology needs for citizens attending to be heard by those in the room and hear them, etc. This is an item that would need to be discussed in the City to determine what would need to be place to provide remote electronic meeting participation. This option could be limited to Commissioners/BZA but needs to be evaluated. We could formalize that the Commission/BZA is allowed to do and we can put language together. Currently the Bylaws don't allow it for citizens. We can continue to evaluate this.

Parliamentary Procedure Training- Secretary stated that this does not need to be added to the Bylaws but will be added to the annual training schedule and delivered during a Planning Commission meeting in the near future. Commission thought this would be helpful.

Commissioner complimented the work produced by the Secretary to provide historic information and details to assist in making decisions on cases. They appreciate all the work done by staff and find it very helpful in answering their questions.

Commissioner Faber was satisfied with the responses contained in the staff report and the bylaw document.

Motion: Commissioner Matzek made a motion to Adopt the Resolution of the Bylaws of the Board of Zoning Appeals As Presented and recommend that the Governing Body Approve the Bylaws. Chairman Jordan seconded the motion. ***Motion carried 5-0.***

B. Adjourn Board of Zoning Appeals and Reconvene the Planning Commission

Motion: Chairman Jordan made a motion to adjourn the Board of Zoning Appeals and reconvene the Planning Commission. Commissioner Mackey seconded the motion. ***Motion carried 5-0.***

VII. Approval of the Next Planning Commission Meeting Date.

Vice-Chairman Faber stated that he may not attend the meeting but will confirm with the Secretary ahead of time.

Motion: Chairman Jordan moved to approve the date of the next meeting: December 11, 2025, at 6:30 p.m. Vice-Chairman Faber seconded the motion. ***Motion carried 5-0.***

VIII. Current Events

The Secretary read the upcoming agenda items and events and confirmed that the Zoning Map will come before the Planning Commission after the first of the year. Vice-Chairman Faber attended the last Chamber of Commerce meeting and appreciated the City Manager's presentation on the financial operation of the city and would like him to present to the Planning Commission in the future.

A. Upcoming Agenda Items:

- a. 2025 Updated Zoning Map
- b. Special Use Case- Group Home
- c. Robert's Rules Training
- d. Annexation Process Overview

B. Upcoming Events:

- a. City hall closed for Thanksgiving- November 27-28
- b. Christmas in Bel Aire @ City Hall- December 6, 5:30 – 7:30
- c. City Hall closed for Christmas- December 24 – 25
- d. City Hall closed for New Year's Day- January 1

IX. Adjournment

Motion: Commissioner Mackey moved to adjourn the meeting. Chairman Jordan seconded the motion. ***Motion carried 5-0.***

City of Bel Aire

STAFF REPORT**DATE:** 12/04/2025

TO: Bel Aire Planning Commission
FROM: Paula Downs
RE: SP-25-01- Special Use- Group Home

STAFF COMMUNICATION

FOR MEETING OF	12/11/2025
CITY COUNCIL	
INFORMATION ONLY	

SUMMARY:

SP-25-01: SP-25-01 Special Use Case to allow a group-home limited use in one-half of a two-family (duplex) unit at 5353 N. Toben Court, generally located at N. 53rd St. and Toben Road.

Legal Description:

Lots 8, Block 1, Rock Spring 3rd Addition, Bel Aire, Sedgwick County, Kansas.

General Location:

N. 53rd St. and Toben Road

Reasons for Request: Permit group home-limited use in one-half of the two-family (duplex) unit.

Notification: The city placed notification on the City of Bel Aire website as required by the city code on November 20, 2025. The affidavit of publication is in the packet. Notification by certified mail was provided to surrounding property owners on November 20, 2025.

Background:

- The subject property is zoned R-5 and is currently developed with a two-family (duplex) residence. The applicants are proposing to convert one-half of the two-family (duplex) unit to a group home-limited unit for elderly care.
 - The R-5 district permitted, or conditional uses do not allow for group home-limited function but does permit them with the approval of a Special Use request.
 - In October 2025, the applicants' contractor applied for a permit to convert the garage attached to one-half of the two-family (duplex) unit into three additional bedrooms and a half-bathroom. The owner's representative were advised that Special Use approval for this use was required prior to utilizing the space as a group home limited unit.

- The property owner had purchased materials for the garage conversation prior to learning about the Special Use case requirement.
- The property owner is working through the state licensing process to operate the group home and with the State Fire Marshall as part of the application process. They were unaware of the city requirements.

LEGAL CONSIDERATIONS:

18.5.4- Special Uses of the zoning regulations provides guidelines for matters which may be considered when considering a special use application, known as "findings of fact."

The applicant provided the following statement addressing the findings of fact:

The home is a two-family duplex. The owner will live in one half and operate a group home for the elderly (Residential Board and Care Home) in the other half of the home. The home is existing and there will be no additions to the home. The residents do not drive, therefore the number of cars will be for staff and visitors, and since most of the staff live next door, they'll be parked in the adjacent parking area, therefore overall, the number of vehicles should not exceed 1-2 at a time and would appear no different from other homes on the street. The home will not have signage out front, nor will it need a ramp since the home is on grade, therefore the home will not have any different appearance from other homes nearby and would not stick out.

Special Use Review Process:

The Planning Commission may recommend approval or disapproval of a Special Use. The process for applying for and the hearing procedure is the same as set forth for a Conditional Use as set out in 18.5.3 of the Bel Aire City Code.

General Standards for Consideration:

1. That proposed uses will not be contrary to the public interest
2. That the spirit of the Code is observed.
3. That public safety and welfare is secured.
4. That substantially equal treatment under the law is preserved.

Criteria for Review. The criteria shall be evaluated in terms of how such criteria relate to any specific case being considered and any stipulation as deemed appropriate by the Commission shall be incorporated into approval of a conditional use in association with the following concerns:

1. Access and traffic load and/or flow.
2. Noise, light and odor.
3. Screening.
4. Parking.
5. Services (public utilities)
6. Public health and safety
7. Adequacy of facility and lot size.

8. Signs.
9. Review by fire marshal for designation.
10. Other considerations as appropriate.

The review criteria have generally been addressed through the applicant statement and staff review. Noise, light, odor, and screening are not issues relevant to the group home-limited use approval. The residence will remain as it is with no external changes. Traffic, parking and signs have been addressed in the applicant statement. There is no detrimental effect on public health and safety or services and public utilities. State Fire Marshall will review as part of the state group home license process.

If a protest petition against the Special use is filed in the office of the city clerk within 14 days following the date of the conclusion of the public hearing signed by the owners of record of 20% or more of the total area within the notification area, the order adopting such conditional use shall not be passed except by at least three-fourths vote of all the members of the Governing Body.

18.5.4.G of the city code provides a process to revoke the Special Use permit. Where conditions in the neighborhood or surrounding property have changed to the extent that the Special Use has a documented negative impact upon the property values of homes within the area of notification, the Planning Commission may call for a public hearing in conformance with the standards for public hearings as set forth in the code, to hear and take evidence as to the changed conditions and documented detrimental effects of the Special Use. At the conclusion of the hearing the Commission may recommend to the Governing Body that the Special Use be modified to add conditions that address the identified detrimental elements, or the approval of the permit be revoked.

Findings of Fact:

1. Character of Neighborhood:

The surrounding neighborhood is comprised of two-family (duplex) residences.

2. Zoning and uses of properties nearby:

North: R-5 - Single Family Homes (north of 53rd St.)

East: R-5 - Two-Family (Duplex)

South: R-5 - Two-Family (Duplex)

West: R-5 - Two-Family (Duplex)

3. Suitability of the subject property for the uses to which it has been restricted

The property is currently zoned R-5 "Garden and patio homes, townhouses and condominiums" multi-family district which is **not** intended to be applied to a single structure. The R-5 district permitted, and conditional uses do not allow for a group home-limited use.

While the subject property is suitable for the residential uses permitted by the R-5 district, the applicant's request to utilize one-half of the two-family (duplex) unit as a group home-limited requires the requested Special Use.

Land use and current zoning district in affect for the property is suitable for the Special Use request.

4. Extent to which removal of the restrictions will detrimentally affect nearby property:

The group-home limited use is not expected to detrimentally affect nearby property.

5. Length of time the subject property has remained vacant as zoned:

The two-family (duplex) residence is currently occupied by the applicants. Home was built in 2021. This finding is not necessarily relevant to the subject request.

6. Relative gain to the public health, safety, and welfare as compared to the loss in value or the hardship imposed upon the applicant:

The proposed group home-limited use does not pose a threat to adjacent residential properties.

The two-family (duplex) exterior is residential in character and consistent with other residential structures in the neighborhood.

The applicant has spent time and effort to submit an application to obtain their state license to operate the group home in one-half of their residence. They plan to convert the garage to three additional bedrooms and a half bath. These modifications will net six bedrooms to house six residents. If the Special Use is disapproved, the applicant will be unable to operate the group home. The applicant has already invested in materials for the garage conversion pending the special use case. A building permit has not been issued until the special use has been completed.

Disapproval of the case will create a hardship for the applicant.

7. Conformance of the requested change to the city's comprehensive plan:

Related to Housing, Bel Aire's value statement is to be a destination of choice for people at all stages of life. The group home-limited provides a housing option in Bel Aire.

The request is not in conflict with the comprehensive plan.

The future land use map identifies this area as a Traditional Neighborhood place type that consists predominately of residential dwellings to include the single-family, two-family, accessory dwelling unit, small multi-family structures and the occasional townhouse. The property falls within that described place type.

Appropriate land uses and zoning districts within the place type include Garden and Patio Homes, Townhouses, and Condominiums (R-5). The property is compatible with the traditional neighborhood place type.

8. Impact of the proposed development on community facilities:

The subject property will have no negative impact on community facilities, public infrastructure or utilities.

There are not expected to be any additional or substantial impacts to community facilities by permitting the group home- limited use at the subject property.

9. Opposition or support of neighborhood residents (one factor to be considered and by itself is not sufficient reason to approve or deny a request):

As of this writing, staff was contacted by one surrounding property owner, Roxana Zidarita, who resides at 5321 N. Toben Ct (property owner abutting the back yard of subject property). Property owner inquired as to why they received a notification letter and staff explained the case is requesting the ability to operate a group-home limited business on one-side of the two-family (duplex) unit with the owner residing on the other side. Staff stated that the case includes a public hearing for nearby property owners to present concerns. Mr. Zidarita stated that she has concerns about the group home and she was encouraged to attend the public hearing and state her concerns.

Staff received no other phone calls or written communication from any other notified property owners.

The Planning Commission will need to consider any testimony provided during the public hearing.

10. Recommendations of Professional Planning Staff

Key findings of fact elements: 1, 4, 6, and 8.

Staff recommends **APPROVAL** of the application pending the outcome of Planning Commission review and public hearing.

Based on the preceding factors and the information available at the time the report was prepared, professional planning staff recommends that the Special Use application for a group home-limited use be approved with the following condition:

1. Special Use permit is restricted to the current property owner and is not transferable.

SPECIAL USE APPLICATION CITY OF BEL AIRE, KANSAS

An application to vary the provisions of the zoning regulations is a "Special Use". A site plan is required as part of every variance application submitted to City Hall, 7651 E. Central Park Ave, Bel Aire Kansas 67226. Attention: Planning & Zoning. This document will be used for meetings and public hearings regarding your request and should be neat, legible, well labeled, and drawn to scale. The site plan must contain the following elements:

1. **Sheet Size:** The site plan should be no larger than 11" x 17" and no smaller than 8 ½" x 11". Site plans for larger projects (greater than 6 acres), may be larger, with the approval of City Staff.
2. **Title:** A brief description of the Special Use.
3. **Applicant Name:** Name of the applicant and the agent who prepared the drawing, if applicable.
4. **North Arrow:** Indicate the north direction with respect to the project, Lot, or structure.
5. **Scale:** The scale should be adequate to portray the project, Lot, or structure on the sheet size required. For example, a Lot that is 70 feet by 100 feet can adequately be portrayed at a scale of 1" = 20' (in inch equals 20 feet) on an 11" x 17" sheet of paper. The scale should not be smaller than 1" = 20' and 1" = 50' for larger properties.
6. **Dimensions:** In addition to adequate scale representation, all key features (lot, buildings, driveways, etc.) on the site plan shall have dimensions in feet noted for all sides.
7. **Legal Description:** Legal description of Lot(s) or parcels requiring a Special Use. This description can be in the form of Lots and Blocks.
8. **Existing Conditions:** Indicate all structures and features as they exist on the property. These should be drawn to scale, as described above, and shall include, but not be limited to:
 - All structures and buildings
 - Parking Spaces
 - Fences
 - Significant trees or stands of trees
 - Other landscaping
 - Floodplains
 - Water area or features
 - Significant topographical features
 - Utilities, above and below ground
 - Drainage patterns

9. All required zoning setbacks and easements: Using a dashed line, indicate all required zoning setbacks and utility, drainage, or other easements relative to the project, Lot(s), or structure.

10. All roads/streets adjacent to the property and access points off of those roads: Indicate all roads/streets, including the rights-of-way that surround or intersect the property, including alleys. Indicate all points of access (driveways) from the streets to the project, Lot (s), or structure. Indicate how each road/street is developed, e.g. paved, dirt, undeveloped.

11. Surrounding structures and uses if appropriate: Indicate surrounding uses and zoning as they apply to the request.

12. Modifications by the Special Use: Indicate any modifications to the existing structures or features that will result if the Special Use request is approved. If these modifications or additions are extensive, a second site drawing might be necessary so as not be confused with the existing conditions. These modifications or new features may include, but are not limited to:

Buildings
Structures
Parking areas
Vehicular drives
Pedestrian walks
Location and height of light fixtures
Location of trash receptacles and loading areas
Landscaped areas

13. An application shall be accompanied by a current abstractor's certificate containing a legal description of the area in the application as well as the name and address of the owner, and shall include the names and mailing addresses (with zip codes) of all property owners within the prescribed distance measured from the perimeter of the application area.

14. An application for Special Use shall be accompanied by the appropriate filing fee, (\$250.00) and is payable to the City of Bel Aire.

APPLICATION

This form **MUST** be completed and filed at City Hall, Bel Aire, Kansas, 7651 E. Central Park, Bel Aire, Kansas 67226. **AN INCOMPLETE APPLICATION CANNOT BE ACCEPTED.** Check the appropriate box below for type of application being submitted. A separate application and filing fee is required for each application. A preapplication conference with City Staff is recommended before filing this application.

☐ Continuance of the hearing, provided written request is filed two days prior to the date of the scheduled hearing and every attempt to notify all persons previously notified either by mail or telephone.

☐ Conditions placed on permitted Special Use _____

☐ Security bond is required

☐ Approved

☐ Rejected

Name of owner CELESTINE FOTECK

Address 5353 N TOBEN CT Telephone 316-932-3615

Agent representing the owner DAVID STAUTH - ARCHITECT (PREPARED PLANS)

2627 N BEACON HILL CT,
Address WICHITA KS 67220 Telephone 316-393-8576

1. The application area is legally described as Lot(s) 8; Block(s) 1,
ROCK SPRING 3RD Addition, Bel Aire, Kansas. If appropriate, a metes and
bounds description may be attached.

2. The application area contains 0.259 acres.
3. This property is located at (address) 5353 N TOBEN CT which is generally located at (relation to nearest streets) N 53RD ST & TOBEN ROAD.
4. State why the proposed Special Use will not cause substantial injury to the value of other property in the neighborhood, how it is to be designed within district regulations:

THE HOME IS A TWO-FAMILY DUPLEX. THE OWNER WILL LIVE IN ONE HALF AND OPERATE A GROUP HOME FOR THE ELDERLY (RESIDENTIAL BOARD AND CARE HOME) IN THE OTHER HALF OF THE HOME. THE HOME IS EXISTING AND THERE WILL BE NO ADDITIONS TO THE HOME. THE RESIDENTS DO NOT DRIVE, THEREFORE THE NUMBER OF CARS WILL BE FOR STAFF AND VISITORS, AND SINCE MOST OF THE STAFF LIVE NEXT DOOR, THEY'LL BE PARKED IN THE ADJACENT PARKING AREA, THEREFORE OVERALL THE NUMBER OF VEHICLES SHOULD NOT EXCEED 1-2 AT A TIME AND WOULD APPEAR NO DIFFERENT FROM OTHER HOMES ON THE STREET. THE HOME WILL NOT HAVE SIGNAGE OUT FRONT, NOR WILL IT NEED A RAMP SINCE THE HOME IS ON GRADE, THEREFORE THE HOME WILL NOT HAVE ANY DIFFERENT APPEARANCE FROM OTHER HOMES NEARBY AND WOULD NOT STICK OUT.

5. County control number: PIN:30013164
6. NAMES OF OWNERS - For land inside the city limits, an ownership list of the names, addresses and zip codes of the owners of record of real property located within 200 feet of the exterior boundary of the area described in the application both within the city limits and extending outside the city limits when necessary.

If such area is located adjacent to but within the city limits, the ownership list, in addition to the 200 feet inside the city limits, shall provide similar information extending to 1,000 feet into the unincorporated area.

If such area is located outside the city limits, the ownership list shall extend for 1,000 feet in the unincorporated area and, if the latter extends into the city limits, then such owners for 200 feet inside the city must also be included on the list.

The names of the owners of all property included in this application MUST be listed as applicants. Contract purchasers, lessees or other directly associated with the property may also be listed if they desire to be advised of the proceedings.

1. Applicant CELESTINE FOTECK Phone 316-932-3615
Address 5353 N TOBEN CT Zip Code 67226
- Agent _____ Phone _____
Address _____ Zip Code _____
2. Applicant _____ Phone _____
Address _____ Zip Code _____
- Agent _____ Phone _____
Address _____ Zip Code _____

3. Applicant _____ Phone _____
Address _____ Zip Code _____

Agent _____ Phone _____
Address _____ Zip Code _____

The applicant certifies that the foregoing information is true and correct to the best of their knowledge and acknowledges that the Planning Commission and/or Governing Body shall have authority to impose such conditions as it deems necessary in order to serve the public interest and welfare.

Authentisign

CELESTINE FOTECK

11/03/25

Applicant's Signature

BY

Authorized Agent (If Any)

The Petition must bear the signature(s) of the property owner(s). If an authorized agent signs on the owner's behalf, the agent shall sign his own name and attach the owner's written notarized authorization to this application.



AFFIDAVIT OF PUBLICATION

State of Kansas, Sedgwick County, ss:

Melissa Krehbiel, City Clerk

Being first duly sworn, deposes and says:

That I, Melissa Krehbiel, City Clerk of the City of Bel Aire, Kansas, has published the attached notice on the City of Bel Aire website, www.belaireks.gov, which website is designated as the official City newspaper for the City of Bel Aire, Kansas by Charter Ordinance No. 25, effective August 6, 2024.

That the attached Official Notice of Special Use Hearing is a true copy thereof and was published on such website beginning on the 20th day of November, 2025.

Melissa Krehbiel
Signature

SUBSCRIBED AND SWORN to before me this 20th day of November, 2025.

Amy L. Guhr
Notary Public



(seal)

City of Bel Aire
Melissa Krehbiel – City Clerk
7651 East Central Park Avenue
Bel Aire, Kansas 67226
316-744-2451
www.belaireks.gov

(Notification Posted on the City of Bel Aire Website, the designated official City newspaper for the City of Bel Aire on November 20, 2025)

OFFICIAL NOTICE OF SPECIAL USE HEARING

TO WHOM IT MAY CONCERN AND TO ALL PERSONS INTERESTED:

Notice is Hereby Given that on December 11, 2025, the City of Bel Aire Planning Commission will consider the following Special Use case in the order placed on the agenda after 6:30 p.m. in the City Council Chamber at City Hall in Bel Aire, Kansas:

SP-25-01. Special Use Case to Allow a Group Home-Limited Use in One-Half of a Two-Family Duplex Unit.

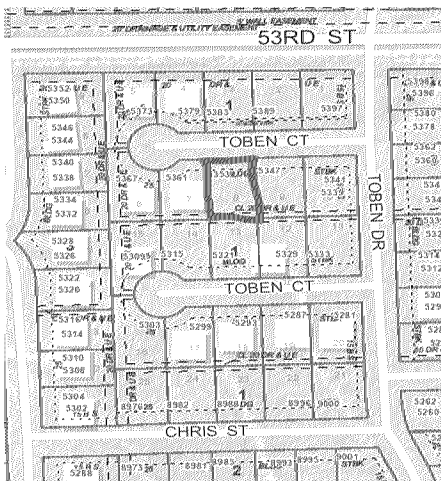
Legal Description: Lots 8, Block 1- Rock Spring 3rd Addition, Bel Aire, Sedgwick County, Kansas.

General Location: N. 53rd St. & Toben Road

You may appear at this time either in person or by agent or attorney, if you so desire, and be heard on the matter. After hearing the views and wishes of all the persons interested in the case, the Planning Commission may close the hearing and consider a recommendation to the Governing Body, which, if approved under the City Zoning and Sub- Division regulations, would be effectuated by city code. The public hearing may be recessed and continued from time to time without notice.

DATED this 20 day of November 2025.

/s/ Paula L. Downs
Bel Aire Planning Commission Secretary





OWNERSHIP LIST

PROPERTY DESCRIPTION		PROPERTY OWNER
Lot 8, Blk 1 Subject Property	Rock Spring 3rd Addition	Celestine Fomeza Foteck 5700 E. Mainsgate Rd., Apt. 1804 Wichita, KS 67220
Lots 1, 2, 3, & 4, Blk 1	“	Premier One Investments, LLC PO Box 781572 Wichita, KS 67278
Lot 5, Blk 1	“	Victoria Daley & Ian Daley 5371 N. Toben Ct. Wichita, KS 67226
Lots 6 & 7, Blk 1	“	Trinity Rentals, LLC PO Box 780405 Wichita, KS 67278
Lot 9, Blk 1	“	Connor P. Relph 5435 N. Toben Ct. Bel Aire, KS 67226
Lot 10, Blk 1	“	RKR, LLC 8550 NW Parallel St. Towanda, KS 67144
Lot 11, Blk 1	“	Nii Manor Nartey 5333 N. Toben Ct. Bel Aire, KS 67226
Lot 12, Blk 1	“	Mary Wairimu 5327 N. Toben Ct. Wichita, KS 67226
Lot 13, Blk 1	“	Cristian & Roxana Zidarita 1014 N. Cedar Downs Cir. Wichita, KS 67235



Lot 14, Blk 1	“	Duy K. Nguyen & Binh T. Le 2201 S. Ironside Wichita, KS 67230
Lot 15, Blk 1	“	Anusone Phakdy 5309 N. Toben Ct. Wichita, KS 67226
Lot 17, Blk 1	“	Victor Okwo 5299 N. Toben Ct. Bel Aire, KS 67226
Lot 18, Blk 1	“	Pamela B. Flesher & John D. Flesher 12500 E. Four Oaks St. Wichita, KS 67226
Lot 19, Blk 1	“	Gary S. Goodson Revocable Trust 7306 E. Norfolk Dr. Wichita, KS 67206
Lot 5, Blk 3	Rock Spring 2nd Addition	Peters Family Homes, LLC 5326 N. Cypress St. Bel Aire, KS 67226
Lots 6 & 7, Blk 3	“	Premier One Investments, LLC PO Box 781572 Wichita, KS 67278
Lot 8, Blk 3	“	RKR, LLC 8550 NW Parallel St. Towanda, KS 67144




We hereby certify the foregoing to be a true and correct list of the property owners of the herein before described lots within a 200 foot radius of:

Lot 8, Block 1, Rock Spring 3rd Addition to Bel Aire, Sedgwick County, Kansas.

as shown by the last deed of record filed in the Office of the Register of Deeds, Sedgwick County, Kansas, on the 27th day of October, 2025, at 7:00 A.M.

SECURITY 1ST TITLE

By: 

LICENSED ABSTRACTER

Order: 3163188
KJK



DATE: December, 2025
TO: Bel Aire City Council
FROM: City Attorney
SUBJECT: Adoption of Airport Hazard Preventative Zoning Requirements

Background: Obstructions to aircraft during landing or takeoff that exist in areas nearby airports can create hazards posing risks to lives and property. These hazards can impact current and future flight paths, maneuvering space, and overall airport operations. To address this problem, Kansas statute allows local governments to adopt and enforce airport zoning regulations which can prevent hazard development.

Wichita and Sedwick County have shared a joint Airport Hazard Zoning Code since 1995. Properties within the city limits of Bel Aire are not subject to this Code, as the Sedwick County jurisdiction only extends to unincorporated areas of the county. This situation presents a gap in airport safety coverage for Colonel James Jabara Airport (Jabara), as a portion of its footprint is adjacent to and located within the city limits of Bel Aire.

Jabara is a rapidly growing general aviation airport which is home base to approximately 150 jet and propeller-driven aircraft. It is also home for the National Center for Aviation Training and WSU Tech, which is currently building a \$30 million expansion. It is a significant economic driver located approximately a mile south of Sunflower Commerce Park. It is a valuable asset in the City's total economic development opportunity package, yet requires no financial contributions from the City.

Analysis: The Federal Aviation Administration (FAA) issued a new Advisory Circular in September 2022 covering Airport Land Use Compatibility Planning intended to aid local jurisdictions developing airport land use compatibility plans. The Wichita Airport Authority (WAA) hired a consultant to review the Wichita-Sedgwick County Airport Hazard Zoning Code in light of this new FAA guidance and to propose necessary changes. After full review by the Metropolitan Area Planning Commission, both Wichita and Sedgwick County have repealed the old Code and adopted a comprehensive replacement Airport Hazard Zoning Code. This includes a new Airport Hazard Zoning Map covering all of Sedgwick County.

The ordinance proposed here incorporates the provisions of the 9-16-25 Wichita-Sedgwick County Airport Hazard Zoning Code which pertain to Jabara Airport, and therefore impact the nearby properties within the Bel Aire city limits. The provisions limit the height of structures, objects and natural vegetation, and other hazards to air navigation within areas nearby Jabara. This ordinance defines specific hazards, establishes boundaries and outlines procedures for modifying the restrictions for modifying the restrictions and boundaries of protection zones. It follows the land

use compatibility guidance from the FAA, ensuring that there will be no conflict with air service and airport development at Jabara.

Any applicant proposing any structure, object or natural vegetation that exceeds the height limits specified in the Airport Hazard Zoning Map or proposing any tower or structure of any height that transmits signals must use the FAA's web-based Notice Criteria Tool before submitting the proposal to the City's Director of Community Development.

Financial Considerations: Adoption of this ordinance will not create any financial obligations for the City.

Legal Considerations: The City Attorney has reviewed and approved the proposed ordinance amending the City's Zoning Code.

Recommended Action: Staff recommends that the City Council adopt the proposed ordinance modifying the City's Zoning Code, authorize the necessary signatures, and instruct the City Clerk to publish the ordinance as required by law.

Attachments:

Proposed ordinance

Sedgwick County Airport Hazard Zoning Map



AFFIDAVIT OF PUBLICATION

State of Kansas, Sedgwick County, ss:

Melissa Krehbiel, City Clerk

Being first duly sworn, deposes and says:

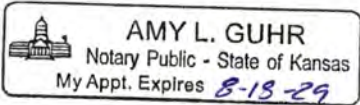
That I, Melissa Krehbiel, City Clerk of the City of Bel Aire, Kansas, has published the attached notice on the City of Bel Aire website, www.belaireks.gov, which website is designated as the official City newspaper for the City of Bel Aire, Kansas by Charter Ordinance No. 25, effective August 6, 2024.

That the attached Official Notice of Public Hearing (Airport Hazard Regulations) is a true copy thereof and was published on such website beginning on the 20th day of November, 2025.

Melissa Krehbiel
Signature

SUBSCRIBED AND SWORN to before me this 20th day of November, 2025.

Amy L. Guhr
Notary Public



(seal)

City of Bel Aire
Melissa Krehbiel – City Clerk
7651 East Central Park Avenue
Bel Aire, Kansas 67226
316-744-2451
www.belaireks.gov

(Notification Posted on the City of Bel Aire Website, the designated official City newspaper for the City of Bel Aire on November 20, 2025)

**OFFICIAL NOTICE OF PUBLIC HEARING
PERTAINING TO CREATING CHAPTER 18, ARTICLE 12, SECTIONS 18.12.01
THROUGH 18.12.20 OF THE CODE OF THE CITY OF BEL AIRE**

TO WHOM IT MAY CONCERN AND TO ALL PERSONS INTERESTED:

Notice is Hereby Given that on December 11, 2025, the City of Bel Aire Planning Commission will consider the Amendment to the Code of City of Bel Aire by adding Chapter 18, Article 12, Sections 18.12.01 through 18.12.20 pertaining to Airport Hazard Zoning Regulations in the order placed on the agenda after 6:30 p.m. in the City Council Chamber at City Hall in Bel Aire, Kansas:

Amendment to the Code of the City of Bel Aire to add Chapter 18, Article 12, Sections 18.12.01 through 18.12.20 pertaining to Airport Hazard Zoning Regulations; authorizing zoning restrictions within the vicinity of Colonel James Jabara Airport.

You may appear at this time either in person or by agent or attorney, if you so desire, and be heard on the matter. After hearing the views and wishes of all the persons interested in the case, the Planning Commission may close the hearing and consider a recommendation to the Governing Body, which, if approved under the City Zoning and Sub- Division regulations, would be effectuated by city code. The public hearing may be recessed and continued from time to time without notice.

DATED this 20 day of November 2025.

/s/ Paula L. Downs
Bel Aire Planning Commission Secretary

(Published at www.belaireks.gov on November, _____ 2025.)

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF BEL AIRE, KANSAS PERTAINING TO AIRPORT HAZARD ZONING REGULATIONS; AUTHORIZING ZONING RESTRICTIONS WITHIN THE VICINITY OF COLONEL JAMES JABARA AIRPORT, PENALTIES, AND CREATING CHAPTER 18, ARTICLE 12, SECTIONS 18.12.01 THROUGH 18.12.20 OF THE CODE OF THE CITY OF BEL AIRE, KANSAS.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF BEL AIRE, KANSAS:

“The Code of the City of Bel Aire is hereby amended by adding Chapter 18, Article 12, Sections 18.12.01 through 18.12.20, which read as follows:

18.12.01 Title and Authority

This Bel Aire Airport Hazard Zoning Code shall regulate and restrict the height of structures, objects, natural vegetation growth, and other natural or constructed hazards to air navigation within the vicinity of Colonel James Jabara Airport. Creation of appropriate zones and surfaces, establishment of the boundaries thereof, and provision for changes in the restrictions and boundaries of such zones are set forth in this Code

The Wichita-Sedgwick County Airport Hazard Zoning Map as amended and as pertinent to the jurisdiction of the City of Bel Aire, along with all notations, references, elevations, data, zone boundaries, and other information thereon is hereby adopted and incorporated into and made part of this Code. It is intended that such restrictions will be coordinated with the restrictions existing under Chapter 18 of this Code, including the Airport Overlay District (A-O) contained therein. To that end, the requirements of this Article 20 shall supersede any conflicting permitted uses or exceptions found in Articles 6 or 7 of this Chapter 18.

18.12.02 Statement of Purpose and Findings

Colonel James Jabara Airport (Jabara) is acknowledged as a public facility that is essential to the City of Bel Aire’s economic development.

(A) The creation or establishment of an Airport Hazard is a public nuisance and poses a potential concern to the surrounding communities served by the Airport.

(B) The creation or establishment of a hazard that endangers public health, safety, or welfare; impacts an individual’s quality of life; or prevents the safe movement of aircraft at the Airport is prohibited.

(C) For the protection of public health, safety, and general welfare, and for the promotion of the most appropriate use of land, it is necessary to prevent the creation or establishment of Airport Hazards.

(D) The prevention of Airport Hazards shall be accomplished, to the extent legally possible, by proper exercise of the police power of the City of Bel Aire.

(E) The prevention of new Airport Hazards and the elimination, removal, alteration, mitigation, or marking and lighting of existing Airport Hazards, are considered to be a public purpose for which the City of Bel Aire may raise and expend public funds.

18.12.03 Applicability

This Code encompasses the prescribed areas defined herein around the Airport, as shown on the Wichita-Sedgwick County Airport Hazard Zoning Map.

18.12.04 Definitions

For the purposes of this Code, words and terms defined in this Article shall be given the meanings set forth here. All other words shall be given their common, ordinary meanings, as the context may reasonably suggest.

In case of a dispute over the meaning of a term not defined here or over the application of a definition set forth here, the Community Development Director shall give a written interpretation.

The intent of this Code is to capitalize or enclose in quotations the defined terms, but in those situations where this capitalization or punctuation is omitted, this does not override construing these terms in accord with their defined meanings.

(A) “Aircraft” means a device that is used or intended to be used for flight in the air, including but not limited to: fixed-wing airplanes (single-engine, multi-engine, jet, turbine and/or piston), rotorcraft (including helicopters), gliders, drones, airships, balloons, powered parachutes, and seaplanes.

(B) “Airport” means any area of land or water designed and set aside for the landing and taking-off of Aircraft. The term Airport includes Heliports set aside for the landing and taking-off of rotary wing Aircraft.

(C) “Airport Elevation” means the established Airport Elevation in feet above mean sea level, of the highest point on the landing area which is used or intended to be used for takeoff and landing operations.

(D) “Airport Hazard” means regardless of Height, any natural or constructed hazards to air navigation which may result in glare, visual impairment, wildlife attractants, or other hazards to pilots.

(E) “Airport Hazard Zoning Map” means the Wichita-Sedgwick County Airport Hazard Zoning Map compiled from the criteria in Title 14 Code of Federal Regulations Part 77 (14 CFR Part 77), *Objects Affecting Navigable Airspace*. It shows the Airport Hazard Zones and five (5) Airport Overlay Surfaces, including Jabara, and includes the layout of Runways, Airport boundaries, elevations, and area topography. Applicable height limitation areas are shown in detail.

(F) “Airport Overlay Surfaces” means surfaces intended to place height and land use conditions on land impacted by airport operations while retaining the existing underlying zone(s). The (14 CFR Part 77) surfaces and Runway protection zones have been combined to create five (5) overlay surfaces for each Airport identified in the Wichita-Sedgwick County Airport Hazard Zoning Code. The five (5) specific surfaces create a comprehensive area focused on maintaining compatible land use around Airports.

(G) “Airport Reference Point” means a point at the approximate center of the Airport landing area as shown on the Wichita-Sedgwick County Airport Hazard Zoning Map.

(H) “Approach Surface” means a surface longitudinally centered on the extended Runway centerline; extending outward and upward from the end of the Primary Surface and at the same slope as the Approach Surface Height limitation slope set forth in 18.20.6 of this Code. In plan view, the perimeter of the Approach Surface coincides with the perimeter of the approach.

(I) “Conical Surface” means the surface extending upward and outward from the periphery of the Horizontal Surface at a slope of twenty (20) feet horizontally for every one (1) foot vertically (twenty to one, 20:1) for a distance of four thousand (4,000) feet. It is the outermost surface of the overlay areas and has the least number of land use restriction considerations.

(J) “Drone” means an unmanned Aircraft that is operated without the possibility of direct human intervention from within or on the Aircraft.

(K) “FAA” means the Federal Aviation Administration.

(L) “Governing Body” means the Bel Aire City Council within its incorporated limits..

(M) “Hard Surface” means a Runway consisting of an asphalt or concrete pavement. This does not include Runways consisting of grass or dirt surfaces.

(N) “Height” means the datum means sea level elevation unless otherwise specified, for the purpose of determining the maximum object Height limits in all zones set forth herein and shown on the Wichita-Sedgwick County Airport Hazard Zoning Map.

(O) “Heliport” means an area on land, water or upon a Structure set aside and used for the landing and takeoff of rotary wing Aircraft and additional facilities that may be provided for the fueling, refueling, repair and storage of rotary wing Aircraft.

(P) “Horizontal Surface” means the horizontal plane located one hundred fifty (150) feet above the established Airport Elevation and which begins at the edge of the Transitional Surface and Primary Surface for a distance of five thousand (5,000) feet for Visual Approach Runways, or ten thousand (10,000) feet for all other Runways.

(Q) “Jabara” means Colonel James Jabara Airport, a Civilian general aviation reliever Airport which has a property footprint partially within the jurisdiction of the City of Bel Aire and partially within the jurisdiction of the City of Wichita.

(R) “Larger Than Utility Runway” means a Runway that is constructed for and intended to be used by propeller driven Aircraft of greater than twelve thousand five hundred (12,500) pounds maximum gross weight, and jet-powered Aircraft.

(S) “Manager” means, at Colonel James Jabara Airport (KAAO), the Director of Airports of the Wichita Airport Authority.

(T) “Natural Vegetation” means any tree or other object of natural growth.

(U) “Nonconforming Use” means any preexisting Structure, object of natural growth, or use of land which is inconsistent with the provisions of this Code.

(V) “Non-Precision Instrument Runway” means a Runway with an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in non-precision instrument approach procedure has been approved or planned, and for which no precision approach facilities are planned or indicated on an FAA planning document or Military Airport planning document.

(W) “Non-Public Use Airport” means any Airport designated for private or restricted use only; not open to the general public.

(X) “Planning Commission” means the Bel Aire Planning Commission.

(Y) “Person” means an individual, firm, partnership, corporation, company, association, joint stock association or governmental entity; includes a trustee, receiver, assignee or similar representative of any of them.

(Z) “Precision Instrument Runway” means a Runway with an existing instrument approach procedure utilizing an instrument landing system (ILS) or precision approach radar (PAR). It also means a Runway for which a precision approach system is planned and is so indicated by an FAA-approved Airport layout plan, any other FAA planning document.

(AA) “Primary Surface” means the surface that is longitudinally centered on a Runway. When the Runway has a specially prepared hard surface, the Primary Surface extends two hundred (200) feet beyond each end of that Runway. When the Runway has no specially prepared hard surface, the Primary Surface ends at each end of that Runway. The width of the Primary Surface is two hundred fifty (250) feet, or fifty (50) feet beyond the marked edge of a turf Runway, for Utility Runways with only visual approaches, and five hundred (500) feet for Utility Runways with non-precision instrument approaches. For other than Utility Runways, the width of the Primary Surface is five hundred (500) feet for Visual Runways with only visual approaches; five hundred (500) feet for Non-Precision Instrument Runways with visibility minimums greater than three-fourths (¾) statute mile; one thousand (1,000) feet for a Non-Precision Instrument Runway with a non-precision instrument approach with visibility minimums as low as three-fourths (¾) statute mile and for Precision Instrument Runways. The width of the Primary Surface of a Runway will be that width prescribed in 14 CFR Part 77 Subpart § Section 77.19 for the most precise approach existing or planned for either end of that Runway. For Heliports, Primary Surface means an area that coincides in size and shape with the designated takeoff and landing area of a Heliport. This surface is a horizontal plane at the elevation of the established Heliport elevation (see Airport Elevation)

(BB) “Public-Use Airport” means an Airport that is available for use by the general public without a requirement for prior approval of the Airport owner or operator.

(CC) “Runway” means a defined area on an Airport prepared for landing and takeoff of Aircraft along its length.

(DD) “Runway Approach Surface” means the critical overlay surface that reflects the approach and departure areas for each Runway at an Airport. The Runway Approach Surface is longitudinally centered on the extended Runway centerline and extends outward and upward from

the end of the Runway. The approach slope is twenty to one (20:1) for a distance of five thousand (5,000) feet for Visual Runways; thirty-four to one (34:1) for a distance of ten thousand (10,000) feet for all Non-Precision Instrument Runways other than utility; and fifty to one (50:1) for ten thousand (10,000) feet with an additional forty thousand (40,000) feet at a slope of forty to one (40:1) for all Precision Instrument Runways.

(EE) “Runway Protection Surface” means the area off the end of the Runway that is designed to provide a clear area, free of aboveground obstructions including Structures, objects and Natural Vegetation, to enhance the protection of people and property on the ground. This surface is intended to provide a clear area that is free of any aboveground obstructions.

(FF) “Structure” means an object, including a mobile object, constructed or installed by man, including, but without limitation buildings, towers, smokestacks, poles, pole lines, light poles, signs, earth formations and overhead transmission lines.

(GG) “Transitional Surface” means the surface extending outward and upward at right angles to the Runway centerline and which extends at a slope of seven (7) feet horizontally for each one (1) foot vertically (seven to one, 7:1) from the sides of the Primary and Runway Approach Surfaces. The Transitional Surfaces extend to the point at which they intercept the Horizontal Surface at a height of one hundred fifty (150) feet above the established Airport Elevation. For those portions of the Precision Approach Surface which project through and beyond the limits of the Conical Surface, the Transitional Surfaces extend a distance of five thousand (5,000) feet measured horizontally from the edge of the Approach Surface and at right angles to the Runway centerline.

(HH) “Utility Runway” means a Runway that is constructed for and intended to be used by propeller driven Aircraft of twelve thousand five hundred (12,500) pounds maximum gross weight and less.

(II) “Vertiport” means an area of land, water, or a structure used, or intended to be used, to support the landing, takeoff, taxiing, parking, and storage of powered-lift Aircraft.

(JJ) “Visual Approach” means an approach to an Airport that is conducted with visual reference to the terrain.

(KK) “Visual Runway” means a Runway that is intended solely for the operation of Aircraft using Visual Approach procedures, with no straight-in instrument approach procedure and no instrument designation indicated on an FAA-approved Airport layout plan, or by any planning document submitted to the FAA by a competent authority.

18.12.05 Airport Overlay Surfaces

Airport Overlay Surfaces established by this Code include all the land lying beneath the Runway Protection Surface, Runway Approach Surfaces, Transitional Surfaces, Horizontal Surfaces, and Conical Surfaces of Jabara. These surfaces are as defined under Section 18.20.4, which are more specifically described in 18.20.6, and as shown on the Wichita-Sedgwick County Airport Hazard Zoning Map.

18.12.06 Colonel James Jabara Airport

(A) Airport Elevation. The established Airport Elevation is one thousand four hundred twenty (1,420) feet above mean sea level.

(B) Airport Surfaces and Height Limits. The various surfaces and Height limits for Colonel James Jabara Airport are shown on sheet one of the Wichita-Sedgwick County Airport Hazard Zoning Map.

(1) Runway Larger Than Utility with a Visibility Minimum as Low as Three-fourths ($\frac{3}{4}$) Mile Non-Precision Instrument Approach Surface (Runway 36). The inner edge of this Runway Approach Surface coincides with the width of the Primary Surface and is one thousand (1,000) feet wide. The Runway Approach Surface extends outward uniformly to a width of four thousand (4,000) feet at a horizontal distance of ten thousand (10,000) feet from the end of the Primary Surface. Its centerline is the continuation of the centerline of the Runway. The applicable Height limitation slopes one (1) foot upward for each forty (40) feet outward, beginning at the end of, and at the same elevation as, the Primary Surface and extending to a horizontal distance of ten thousand (10,000) feet along the extended Runway centerline.

(2) Precision Instrument Runway Approach Surface (Runway 18). The inner edge of this Runway Approach Surface coincides with the width of the Primary Surface and is one thousand (1,000) feet wide. The Runway Approach Surface extends outward uniformly to a width of sixteen thousand (16,000) feet at a horizontal distance of fifty thousand (50,000) feet from the end of the Primary Surface. Its centerline is the continuation of the centerline of the Runway. The applicable Height limitation slopes one (1) foot upward for each fifty (50) feet outward, beginning at the end of, and at the same elevation as, the Primary Surface and extending to a horizontal distance of ten thousand (10,000) feet along the extended Runway centerline; thence slopes one (1) foot upward for each forty (40) feet outward to an additional horizontal distance of forty thousand (40,000) feet along the extended runway Centerlines.

(3) Transitional Surfaces. The applicable Height limitation slopes one (1) foot upward for each seven (7) feet outward, beginning at the sides of, and at the same elevation as, the Primary Surface and the Runway Approach Surface, and extending to a Height of one hundred

fifty (150) feet above the Airport Elevation. In addition to the foregoing, there are established Height limits sloping one (1) foot upward for each seven (7) feet outward beginning at the sides of, and at the same elevation as the Runway Approach Surface, and extending to where they intersect the Conical Surface. Where Precision Instrument Runway Approach Surfaces project beyond the Conical Surface, there are established Height limits sloping one (1) foot upward for each seven (7) feet outward beginning at the sides of, and at the same elevation as the Runway Approach Surface and extending a horizontal distance of five thousand (5,000) feet measured at ninety-degree (90°) angles to the extended Runway centerline.

(4) Horizontal Surfaces. The Horizontal Surface is established by swinging arcs of five thousand (5,000) feet radii for all Runways designated utility or visual and ten thousand (10,000) feet radii for all other Runways from the center of each end of the Primary Surface of each Runway and connecting the adjacent arcs by drawing lines tangent to those arcs. The radii of the arcs for each end of the Runway shall be the same and the radius shall be the longest determined for either end. The applicable Height limitation is established at one hundred fifty (150) feet above the established Airport Elevation.

(5) Conical Surfaces. The Conical Surface is established as that area that commences at the periphery of the Horizontal Surface and extends outward for a horizontal distance of four thousand (4,000) feet. The applicable Height limitation slopes one (1) foot upward for each twenty (20) feet outward, beginning at the periphery of the Horizontal Surface and at one hundred fifty (150) feet above the established Airport Elevation and extending to a Height of three hundred fifty (350) feet above the Airport Elevation.

306 18.12.07 Spacing Adjacent Airports

(A) No new Airport shall be established, nor shall any existing Airport be improved with approach guidance equipment, to enhance instrument flight rule (IFR) capabilities, any portion of a proposed or existing boundary will be under an Airport Overlay Zone established by this Code or within a radius of eight (8) miles from an Airport Reference Point of an Airport established on the date of this Code, unless a permit has been granted in accordance with the provisions of this Code. Prior to granting any such permit, the Governing Body shall for the purpose of study, comment and recommendation, refer the matter to the Federal Aviation Administration, the manager of Jabara, the Bel Aire Community Development Director and to any other local planning body having either planning or land use control jurisdiction within the area affected.

317 (B) Exceptions to the spacing requirements provided herein may be granted by the Governing
318 Body when all of the following conditions have been met: 1.
319 Receipt of a proper application; 2. Referral of the matter to all entities described in (A) above for
320 study, comment, and recommendation; 3. A public hearing is held; and 4. A finding that special

conditions exists which makes literal enforcement of the spacing requirements an unnecessary hardship and that an exception would not be contrary to public interest.

(C) If any of the aforementioned entities to whom the matter shall have been referred does not, within sixty (60) days, transmit a report to the Governing Body, then it shall be deemed to have approved the proposal; provided, however, that upon request of any such entity, the Governing Body shall grant a reasonable extension of such time.

(D) In granting such exception, the Governing Body shall impose special conditions which will ensure that public interest, existing public and private investment in Airports, and air safety are maintained.

18.12.08 Airport Height Limitations and Lighting Requirements

Unless otherwise provided for in this Code, no Structure, object, Natural Vegetation, or terrain shall be erected, altered, allowed to grow, or be maintained within the applicable Airport Hazard Zone or any Airport Overlay Surface established by this Code to a Height in excess of the applicable Height limitations established by 14 CFR Part 77, *Imaginary Surfaces*, as depicted on the Wichita-Sedgwick County Airport Hazard Zoning Map. Where two (2) or more surfaces overlap, the more restrictive limitation or requirement shall govern and prevail.

Lighting and marking requirements will be determined through an FAA 7460-1 airspace analysis. The owner of any Structure, object, Natural Vegetation, or terrain shall install, operate, and maintain such markers, lights, and other navigational aids necessary to indicate the presence of an Airport Hazard to Aircraft operators. Any permit or variance granted may, if such action is deemed advisable to effectuate the purpose of this Code and is reasonable in the circumstances, be so conditioned as to require the owner of the Structure, object, or Natural Vegetation in question to install, operate, and maintain, at the owner's expense, such markings and lighting as specified by the standards in the most current version of FAA Advisory Circular (AC) 70/7460-1. If deemed necessary by the Governing Body, this condition may be modified to require the owner to permit the installation, operation, and maintenance of the necessary markings and lighting in accordance with the standards in the most current version of FAA AC 70/7460-1, at the expense of the owner(s) of the affected Airport.

18.12.09 Use Limitations Within Airport Hazard Zones and Airport Overlay Surfaces

Notwithstanding any other provision of this Code, no use may be made of land or water within any Airport Overlay Zone or any Airport Overlay Surfaces established by this Code in such manner as to make it difficult for pilots to distinguish between airfield lights and other lights, result in glare in the eyes of the pilots using the Airports, create smoke, impair visibility, create bird strike hazards or otherwise in any way, endanger or interfere with the landing, takeoff or maneuvering of Aircraft intending to use the Airport.

A shield that reduces the amount of light visible from above and directs the light downward shall be required for all outdoor lights installed after the effective date of this Code, within the limits of the Horizontal, Inner-Horizontal, Transitional or Runway Approach Surfaces, except those lights incidental to residential uses.

Nothing in this Code shall be construed as prohibiting the construction or maintenance of any Structure or growth of any Natural Vegetation to a Height of twenty-five (25) feet above the surface of the land.

18.12.10 Nonconforming Uses

(A) Regulations Not Retroactive. The regulations prescribed by this Code shall not be construed to require the removal, lowering or other changes or alteration of any Structure or tree not conforming to the regulations as of the effective date of this Code or to otherwise interfere with the continuance of a nonconforming use. Nothing contained in this Code shall require any change in the construction, alteration or intended use of any Structure, the construction or alteration of which was begun prior to the effective date of this Code, and diligently prosecuted.

(B) Marking and Lighting. Notwithstanding the preceding provision of this section, the owner of any existing nonconforming Structure or tree shall operate and maintain such markers and lights in accordance with standards as set forth in the FAA Circular "Obstruction Marking and Lighting" (No. AC70/74609-1 F) to indicate to the operators of Aircraft in the vicinity of the Airports the presence of Airport Hazards. The maintenance, operation and installation of such markers and lights on such nonconforming Structures and trees, shall be the responsibility of the owner or owners of the affected Airport.

18.12.11 Code Administration and Enforcement

It shall be the duty of the Community Development Director to administer and enforce the regulations prescribed herein, including the authority to make written interpretations of this Code. Applications for Airport Hazard Zoning Permits, variances and written interpretations shall be made to the Community Development Director upon forms furnished by the Community Development Director. Airport Hazard Zoning Permit applications shall be either granted or denied by the Community Development Director in accordance with the regulations prescribed herein. Any variance shall be done in accordance with Sec. 18.20.13 and any appeal shall be done in accordance with Sec. 18.20.15. In addition, the Community Development Director may cause to be instituted in any court of competent jurisdiction an action to prevent, restrain, correct or abate any violation of this Code, or of any order or ruling made in connection therewith as provided by law.

18.12.12 Airport Hazard Zoning Maps

The officially adopted Wichita-Sedgwick County Airport Hazard Zoning Map, as amended, is to be kept on file in the office of the Community Development Director.

18.12.13 Airport Hazard Zoning Permits

Any tower, Structure, or object which transmits a signal requires an Airport Hazard Zoning Permit without exception. Any other Structure, object or Natural Vegetation which exceeds the Height limits specified in the Airport Hazard Zoning Map requires an Airport Hazard Zoning Permit, except as provided below.

Exceptions:

(1) In the area lying within the boundaries of Zone A shown on sheet two of the Wichita-Sedgwick County Airport Hazard Zoning Map, no permit shall be required under this section for any Structure less than twenty-five (25) feet of vertical Height above the ground.

(2) In the area lying within the boundaries of Zone B shown on sheet two of the Wichita-Sedgwick County Airport Hazard Zoning Map, no permit shall be required under this section for any Structure less than fifty (50) feet of vertical Height above the ground, except when, because of terrain, land contour or topographic features, such Structure would extend above the Height limits prescribed for Runway Approach, Conical, Transitional or Horizontal Surfaces.

(3) In the area lying within the boundaries of Zone C shown on sheet two of the Wichita-Sedgwick County Airport Hazard Zoning Map, no permit shall be required under this section for any Structure less than one hundred (100) feet of vertical Height above the ground, except when, because of terrain, land contour, or topographic features, such Structure would extend above the Height limits prescribed for Runway Approach, Conical, Transitional or Horizontal Surfaces.

(4) In the area lying within the boundaries of Zone D shown on sheet two of the Wichita-Sedgwick County Airport Hazard Zoning Map, no permit shall be required under this section for any Structure less than two hundred (200) feet of vertical Height above the ground, except when, because of terrain, land contour, or topographic features, such Structure would extend above the Height limits prescribed for Runway Approach, Conical, Transitional or Horizontal Surfaces.

The applicant proposing any Structure, object or Natural Vegetation which exceeds the Height limits specified in the Airport Hazard Zoning Map, or a tower, Structure or object of any Height which transmits a signal, shall utilize the FAA's Notice Criteria Tool. After utilizing the FAA Notice Criteria Tool, the following shall be submitted to the Community Development Director for review:

(1) A letter from the FAA Notice Criteria Tool that no Form 7460-1 is requested or required to be filed; or

(2) An FAA Obstruction Evaluation/Airport Airspace Analysis (OE/AAA) Determination

It shall be the duty of the applicant to provide the Community Development Director with sufficient information to evaluate the proposed action. This information shall include, but not be limited to, the following:

- Contact information
 - Structure information
 - Site information
 - Drawing information
 - Effective radiated power (ERP) and frequencies emitted from the structure (if any), proximity to navigation facilities and potential impact to the assurance of navigation signal reception
 - Identification of current and potential compatibility concerns
 - FAA Obstruction Evaluation/Airport Airspace Analysis (OE/AAA) Determination (response to submittal of FAA Form 7460-1, *Notice of Proposed Construction or Alteration*).
- If, through use of the FAA's Notice Criteria Tool, it is determined that submittal of Form 7460-1 is not requested or required, documentation indicating this result must be provided.

The Community Development Director shall evaluate the proposal based on information provided by the applicant. The Community Development Director shall approve the permit if, after evaluation, the proposed project is found to be adequately compatible, in accordance with the provisions of this Code. Should the FAA issue a determination of air hazard or any other adverse or negative determination affecting Airport operations or if the proposed project is found to be incompatible after review, the Community Development Director shall deny the permit. Should the permit be denied, the applicant may request an appeal or a variance, as prescribed in this Code.

18.12.14 Variances

(A) Any person desiring to erect or increase the Height of any Structure, or permit the growth of any Natural Vegetation, or use their property not in accordance with the regulations prescribed in this Code, may apply to the Governing Body for a variance from such regulations. The Governing Body may refer the application to the Community Development Director for study and recommendations. The application for variance shall be accompanied by a determination from the Federal Aviation Administration as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace. Such variances may be allowed where it is duly found that literal application or enforcement of the regulations will result in unnecessary hardship and relief granted will not be contrary to the public interest, will not create a hazard to air navigation, will do substantial justice and be in accordance with the spirit and intent of this

Code.

(B) No application for variance to the requirements of this Code shall be furnished by the Governing Body unless a copy of the application has been furnished to the Manager of the affected Airport(s) for comment as to the aeronautical effects of the variance. If the Manager of the affected Airport(s) does not respond to the Governing Body within fifteen (15) days after receipt, the Governing Body may act on its own to grant or deny the application.

(C) Any person aggrieved by any final decision of the Governing Body may appeal to any court of competent jurisdiction in Sedgwick County, Kansas as provided by law.

18.12.15 Appeals

(A) Any person aggrieved or affected by a decision of the Community Development Director made in administration of this Code, may appeal to the Governing Body.

(B) All appeals under this chapter must be made within thirty (30) days by filing with the Community Development Director a notice of appeal specifying the grounds thereof. The Community Development Director shall forthwith transmit to the Governing Body all papers constituting the record on which the action appealed was taken.

(C) An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Community Development Director certifies to the Governing Body, after the notice of appeal has been filed, that by reason of the facts stated in the certificate, a stay would, in the opinion of the Community Development Director, cause imminent peril to life or property. In such a case, proceedings shall not be stayed except by order of the Governing Body and upon due cause shown.

(D) The Governing Body shall fix a reasonable time for the hearing of appeals, giving public notice by publication once in the official city newspaper a minimum of fifteen (15) days prior to the hearing and due notice to the parties in interest, and shall decide the same within a reasonable time. At the hearing, any party may appear in person, by agent, or by attorney.

(E) The Governing Body may reverse or affirm, in whole or in part, or modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as may be appropriate under the circumstances.

(F) The vote of a majority of the members of the Governing Body shall be sufficient to revise any order, requirement, decision, or determination of the Community Development Director, or to decide in favor of the applicant on any matter upon which it is required to pass under this Code, or to effect any variation in this Code.

(G) Any person aggrieved by any final decision of the Governing Body may appeal to any court of competent jurisdiction in Sedgwick County, Kansas as provided by law.

18.12.16 Amendments

Amendment or repeal of all or part of this Code shall be done in accordance with the procedure prescribed by law for the adoption, amendment and repeal of Airport zoning regulations (K.S.A. 3-705). Any change in an Airport zoning classification shall be accomplished in the manner provided by law, after public hearing held by the Planning Commission and public hearing and action of the Governing Body. Any change shall be noted on the particular Airport Hazard Zoning Map affected by such change which is on file in the office of the Community Development Director and in the office of the Wichita-Sedgwick County Metropolitan Area Planning Department, so that all such Airport Hazard Zoning Maps shall at all times reflect the current Airport zoning classification of land within such zones and surfaces.

18.12.17 Penalties

Notwithstanding any provision in this Code regarding the enforcement of the provisions of this Code by civil or other extraordinary provisions of law, each violation of this Code or any regulation, order or ruling promulgated under this Code, shall constitute a misdemeanor. Any violation occurring within the City shall constitute a misdemeanor with penalties not to exceed twenty five hundred dollars (\$2,500.00). or imprisonment for not more than six (6) months for each offense, or both such fine and imprisonment. For purposes of these penalties, each day a violation continues to exist shall constitute a separate offense.

18.12.18 Conflicting Regulations

Where there exists a conflict between any of the regulations or limitations prescribed in this Code and any other regulations applicable to the same area (including 14 CFR Part 77, *Objects Affecting Navigable Airspace*), whether the conflict be with respect to Height or Structures, the use of land, or any other matter, the more stringent limitation or requirement shall govern and prevail.

18.12.19 Severability

If any section, subsection, sentence, clause, phrase or portion of this Code is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portions shall be deemed separate, distinct and independent provisions and such holding shall not affect the validity of the remaining portions of this Code.

18.12.20 Effective Date

This Code shall be in effect from and after its passage by the Governing Body and publication and posting as required by law.”

562 ADOPTED by the Governing Body of the City of Bel Aire, Kansas on this 4nd day of November, 2025.

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564 SIGNED by the Mayor on this _____ day of November, 2025.

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567 CITY OF BEL AIRE, KANSAS

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Jim Benage, Mayor

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574 ATTEST:

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578 _____
Melissa Krehbiel, City Clerk

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581 APPROVED AS TO FORM:

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Maria A. Schrock, City Attorney

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