

CHAPTER VIII. ZONING

- Article 1. Planning Commission
- Article 2. Board of Zoning Appeals
- Article 3. Zoning and Subdivision Regulations
- Article 4. Flood Plain Zoning Regulations

ARTICLE 1. PLANNING COMMISSION

- 8-101. **CITY PLANNING COMMISSION CREATED.** There is hereby created a Planning Commission for the City of Herington, Kansas, which shall consist of nine (9) electors of which seven (7) members shall be residents of the city and two (2) members shall reside outside the city but within three (3) miles of the corporate limits of the city.
- 8-102. **MEMBERSHIP; APPOINTMENT.** The members of the Planning Commission shall be appointed by the Mayor by and with the consent of the Commission. The members of the Planning Commission shall be appointed for terms of three (3) years each. Vacancies shall be filled by appointment for the unexpired term only. The members of the Planning Commission shall serve without compensation.
- 8-103. **MEETINGS, OFFICERS, RECORDS AND BUDGET.**
- (a) The members of the Planning Commission shall meet at such time and place as may be fixed in the commission's bylaws. The Commission shall elect one (1) member as chairperson and one member as vice-chairperson who shall serve one (1) year and until their successors have been elected. A secretary shall also be elected who may or may not be a member of the commission. Special meetings may be called at any time by the chairperson or in the chairperson's absence by the vice-chairperson. The commission shall adopt bylaws for the transaction of business and hearing procedures. All actions by the commission shall be taken by a majority vote of the membership thereof. A proper record of all the proceedings of the commission shall be kept. The commission, from time to time, may establish subcommittees, advisory committees or technical committees to advise or assist in the activities of the commission.
- (b) The governing body shall approve a budget for the planning commission and make such allowances to the commission as it deems proper, including funds for the employment of such employees or consultants as the governing body may authorize and provide, and shall add the same to the general budget. Prior to the time that moneys are available under the budget, the governing

body may appropriate moneys for such purposes from the general fund. The governing body may enter into such contracts as it deems necessary and may receive and expend funds and moneys from the state or federal government or from any other source for such purposes.

- 8-104. **POWERS AND DUTIES.**** The Governing Body and Planning Commission shall have all the powers and duties as set forth in Kansas Statutes Annotated 12-741. *et seq.* and amendments thereto. The commission is hereby authorized to make or cause to be made, adopted and maintained a comprehensive plan for the city and any unincorporated territory lying outside of the city but within Dickinson and Morris counties, which in the opinion of the commission forms the total community of which the city is a part in accordance with the notice provisions of K. S. A. 12-747 (a). The commission shall also cause to be prepared, adopted and maintained zoning and subdivision regulations on all land within the jurisdiction designated by the Governing Body. The comprehensive plan and zoning and subdivision regulations are subject to final approval of the Governing Body by ordinance. Periodically, the Governing Body may request the commission to undertake other assignments related to planning and land use regulations.

ARTICLE 2. BOARD OF ZONING APPEALS

- 8-201. **BOARD OF ZONING APPEALS.**** There is hereby created a Board of Zoning Appeals, which shall consist of five (5) members, all of whom shall be residents of the city. None of the members shall hold any other public office of the city except that one (1) member may be a member of the Planning Commission.
- 8-202. **MEMBERS APPOINTMENT; TERMS; COMPENSATION.**** The members of the Board of Zoning Appeals shall be appointed by the mayor with the consent of the Commission. The members of the Board of Zoning Appeals first appointed shall serve respectively for terms of one (1), two (2) and three (3) years. Thereafter members shall be appointed for terms of three (3) years each. Vacancies shall be filled by appointment of the unexpired term. Members of the Board of Zoning Appeals shall serve without compensation.
- 8-203. **CHAIRPERSON.**** The Board of Zoning Appeals shall annually elect one of its members as Chairperson, and shall appoint a Secretary who may be an officer or employee of the city. The Board shall adopt rules in accordance with this article and any supplementary ordinances or amendments thereto. Meetings of the Board shall be held at the call of the Chairperson and at such other times as the Board may determine.

- 8-204. MINUTES: FEE FOR FILING A NOTICE OF APPEAL.** The Board of Zoning Appeals shall keep minutes of its proceedings showing evidence presented, findings of fact by the Board, decisions of the Board, and vote upon each question. Records of all official actions of the Board shall be filed in its office and shall be of public record. The Board shall require the payment to the office of the City Clerk by the party appealing at the time of the filing of the notice of appeal, and shall pay an appeal fee to cover all costs of appeal to the Board. The appeal fees are as follows: conditional use appeal - \$100.00; variance appeal - \$100.00; and rezoning appeal - \$150.00. None of such sums are refundable to the party appealing, and in the event the City Clerk determines such sum is inadequate to cover the costs of appeal, he or she may require a deposit of such additional sum as will cover the cost of appeal.
- 8-205. POWERS, DUTIES OF BOARD.** Any aggrieved person appealing to such board including any officer of the city or any governmental agency and the officer from whom an appeal is taken shall have all the powers and duties set forth in K.S.A. 12-759, *et seq.*, and such other powers and duties as are now or may hereafter be prescribed by law.

ARTICLE 3. ZONING AND SUBDIVISION REGULATIONS

- 8-301. ZONING AND SUBDIVISION REGULATIONS INCORPORATED BY REFERENCE.** There is hereby incorporated for the purpose of establishing regulations and restrictions concerning the location, construction and use of land, buildings and structures within the city limits of the City of Herington, Kansas, dividing the city into districts and in accordance with a zoning district map, adopting a map of the city showing boundaries and the classification of the districts, defining certain of the terms used in the regulations, providing for changes and amendments to the regulations, and prescribing penalties for the violation of the regulations that certain ordinance known as the "Herington Zoning Ordinance," Ordinance Nos. 1490 and 1491, and the whole thereof, of which no fewer than three copies have been and are now filed with the City Clerk as provided by law and the same is hereby adopted by reference and incorporated as part of this section as if set out at length herein.
- 8-302. PENALTY.** Any person, firm, or corporation violating any of the provisions of this article shall, upon conviction thereof, be fined in any sum not exceeding five hundred dollars (\$500.00), or be imprisoned for a period not to exceed thirty (30) days, or be both so fined and imprisoned.

ARTICLE 4. FLOOD PLAIN ZONING REGULATIONS

8-401. FLOOD PLAIN ZONING REGULATIONS INCORPORATED. There is hereby adopted and incorporated by reference Ordinance No. 1390A, and amendments thereto, "Flood Plain Zoning Regulations." No fewer than three copies of the "Flood Plain Zoning Regulations" shall be marked or stamped "Official Copy as Incorporated by the Code of the City of Herington," and shall be filed with the City Clerk to be open to inspection and available to the public at all reasonable hours of business.

8-402. PENALTY. Any person, firm, or corporation violating any of the provisions of this article shall, upon conviction thereof, be fined in any sum not exceeding five hundred dollars (\$500.00), or be imprisoned for a period not to exceed thirty (30) days, or be both so fined and imprisoned.