

## **CHAPTER XVI. ZONING AND PLANNING**

- Article 1. City Planning Commission/  
Board of Zoning Appeals
- Article 2. Zoning Regulations
- Article 3. Subdivision Regulations

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### **ARTICLE 1. CITY PLANNING COMMISSION / BOARD OF ZONING APPEALS**

- 16-101. **PLANNING AND ZONING BOARD ESTABLISHED.** There is hereby established the City of Ozawkie Planning and Zoning Board which is composed of six (6) members of which one (1) member may reside outside the city but within the designated three (3) mile planning area of the city. One member shall be designated the Chairperson. (Code 2007)
- 16-102. **MEMBERSHIP, TERMS, INTEREST AND COMPENSATION.** All members of the Planning and Zoning Board shall be appointed by the Mayor, with the advice and consent of the City Council. Each member shall be appointed for a three (3) year period. Appointments shall be staggered so that no more than two (2) new members shall be appointed in any calendar year. All new members shall be appointed and current members re-appointed / confirmed, at the first regular meeting of the City Council in December and take office at that meeting or the next regular meeting of the City Council. In case of death, incapacity, resignation or disqualification of any member, appointment to such vacancy may be made as soon as the next Council Meeting, and the new member shall serve the appointment of the member being replaced. Should any member have a conflict of interest, either directly or indirectly, in any matter coming before the Board, he or she shall be disqualified to discuss or vote on said matter. No provisions shall be made for a "temporary replacement". Members of the Board shall serve without compensation, but may be reimbursed for expenses incurred in performance of their duties, after approval by the City Council. (Code 2007)
- 16-103. **SAME; REMOVAL FROM.** (a) Any member may be removed from the Planning and Zoning Board by the City Council using the following rules:
  - (1) All of the members of the City Council shall be present.
  - (2) Four (4) out of five (5) of the currently seated members must vote for removal.
  - (3) All votes shall be recorded by name. No voice vote allowed.
  - (4) Members may only be removed "for cause".(b) Cause shall be defined as but not be restricted to the following:
  - (1) Failure to attend meetings (less than one half of scheduled meetings in any calendar year).
  - (2) Failure to inform the Board Chairperson or the Mayor of any conflict of interest.

(3) Any act or failure to act that could be construed to be a “criminal action”, by a competent court.  
(Code 2007)

16-104. MEETINGS, OFFICERS AND RECORDS. (a) The members of the Planning and Zoning Board shall meet at such time and place as may be desired by said Board. Such times and places may be adjusted as needs require and the Board shall relay its decision to the City Council. The Board shall elect a Chairperson and at their request the City Clerk may attend and if so, shall be compensated by the City Council.

(b) The Chairperson shall be a non-voting member except in the case of a tie vote. The chairperson may also be acknowledged as a voting member in order that a quorum (three out of five voting members) may be met.

(c) Special Meetings may be called at any time by the chairperson or in an emergency, by the Mayor. All actions by the Planning and Zoning Board shall be taken by a majority of members present so long as that number represents a quorum (three) of members. Proper records of all proceedings of the Board shall be kept by the City Clerk (if in attendance) or by a member of the P&Z Board who has been designated “secretary”.

(d) All decisions of the Board shall be presented to the City Council of the City of Ozawkie, as a “Recommendation”. This recommendation shall be necessary for any motion or vote by the City Council.  
(Code 2007)

16-105. POWERS AND DUTIES. (a) The Planning and Zoning Board shall have the power to “recommend” the following:

(1) New zoning ordinances or amendments to an existing ordinance.

(2) Approval or disapproval of Building Plans and/or Permits.

(3) Approval or disapproval of Variances to Planning and Zoning and Building and Construction Ordinances and Regulations. (Including I.B.C. codes)

(4) Approval or denial of a special use permit.

(b) The power to recommend approval of the above is also the power to recommend denial of same.

(c) The Board shall make, or cause to be made, a “comprehensive plan” for the City of Ozawkie and the unincorporated territory lying outside the city but within Jefferson County, which in the opinion of the Board forms the total community of which the City is a part. Said plan to be presented for approval by the City Council along with future changes or amendments. The Board shall have primary responsibility for maintaining said plans and amendments and for updating on a periodic basis.

(d) The Board shall have the responsibility of recommending to the City Council upgrades or modifications to the Planning and Zoning Regulations and any part of the City Ordinances that directly or indirectly affect their deliberations.

(e) The City Council may request the Board to undertake other assignments related to planning and land use regulations.

(f) The City Council is the final authority on any decisions regarding planning and zoning and building regulations within the City of Ozawkie. While they should take all consideration of any recommendations, of the efforts put forth by the Board and of the considerable amount of study made by the Board, the City

Council is restricted in its powers only by the Ordinances of the City of Ozawkie, the Laws of the State of Kansas and by its Oath of Office.  
(Code 2007)

16-106. BOARD OF ZONING APPEALS. There is hereby created a Board of Zoning Appeals consisting of three members to be appointed by the Mayor with the approval of the City Council. None of the members shall hold any other public office except that one member may be a member of the Planning and Zoning Board . Appointments shall be made as needed, and are not subject to “re-naming” each year. (Code 2007)

16-107. SAME; MEETINGS. The appeals Board shall meet upon the request of the Mayor and/or the City Council concerning their decisions in regards to the following:

- (a) Approval or Denial of a Building Permit.
- (b) Approval or Denial of a Request for a Variance.
- (c) Approval or Denial of a Special Use Permit.
- (d) Challenges to a Planning and Zoning Ordinance or Regulation.
- (e) Challenges to a Building and Construction Ordinance or Regulation.
- (f) Appeals to other recommendations by the Planning and Zoning Board to the City Council, or their decisions regarding said decision.

(Code 2007)

16-108. SAME; POWERS. (a) The Board of Zoning Appeals shall administer the details of appeals from the provisions, ordinances or other matters referred to them regarding the application of the Zoning Ordinances and Regulations. In exercising these powers the board should determine first whether they should hear an “appeal”, then they may reverse or affirm, wholly or partially or may modify the order, requirement, decision or determination and to that end shall have all the powers of the office from which the appeal is taken and may issue or direct the issuance of a permit or variance, or deny same. The Appeals Board may also “recommend” that an ordinance or regulation be reviewed and that the changes may be made to the same, rendering the appeal moot. During a time of “review” by the City Council, the Appeals Board may withhold their decision.

(b) The Board of Zoning appeals is the final authority, in the City of Ozawkie, on all matters given for their review. No person or corporation or government agency, including the City Council of the City of Ozawkie may overturn or reverse their decision.

(c) No interpretation of this ordinance should be construed as denying any party of the remedies of appealing to any Competent Court.

(Code 2007)

16-109. BUDGET. (a) The City Council may approve a budget for the Planning and Zoning Board and the Zoning Appeals Board, and make such allowances to the Boards as it deems proper. Funds may be made available for the employment of experts or consultants as the Council may authorize and provide.

(b) Prior to such budget or should no budget be available, the council may appropriate moneys for such purposes from the General Fund.

(c) The Council may enter into such contracts as it deems necessary and may receive and expend funds from the state or federal government or any other source for such purposes.  
(Code 2007)

16-110. FEES. The fee for an application for appeal to the Board shall be the cost incurred by the City and the board of Zoning Appeals during the appeal process. No part of said fee shall be refundable. Said fee shall be used for administrative purposes. The City Clerk is responsible for the collection of the any applicable fees.  
(Code 2007)

16-111. TERM OF OFFICE; ZONING AND APPEALS BOARD. In order that the Board of Zoning Appeals shall be free in their decision making process, members shall hold office until they voluntarily retire or are removed by "due process".  
(Code 2007)

16-112. SAME; REMOVAL FROM. (a) Members may only be removed from office for cause, and upon the recommendation of the Mayor.  
(b) In order to remove a member of the Appeals Board, all members of the City Council must be present. A voice vote with each members vote being recorded by name, shall be taken. All members of the City Council must vote for the removal, for it to take effect.  
(c) Cause shall be defined as, but not be restricted to, the following:  
(1) Failure to routinely attend meetings (at least one half of the meetings during a calendar year).  
(2) Failure to inform the Mayor of a conflict of interest.  
(3) Any act or failure to act that could be construed as a "criminal act" by a competent court.  
(d) No portion of this ordinance should be construed as denying any person the remedies of appealing to any competent Court.  
(Code 2007)

**ARTICLE 2. ZONING REGULATIONS**

16-201. ZONING REGULATIONS INCORPORATED. There are hereby incorporated by reference as if set out fully herein, the zoning regulations adopted by the governing body of the City of Ozawkie, Kansas, as prepared by the city and entitled, "Zoning Regulations of the City of Ozawkie, Kansas." No fewer than three copies of the zoning regulations, marked "Official Copy as Incorporated by the Code of the City of Ozawkie" and to which there shall be a published copy of this section attached, shall be filed with the city clerk to be open for inspection and available to the public at all reasonable business hours. (Code 2007)

**ARTICLE 3. SUBDIVISION REGULATIONS**  
(Reserved for Future Use)