

ARTICLE 20

ADMINISTRATIVE BODIES

DIVISION 20.000 PURPOSE

This Article establishes the powers and duties of decision-making and administrative bodies under these regulations. Other powers and duties may exist under State law.

DIVISION 20.100 ADMINISTRATION

SECTION 20.110 RESPONSIBILITY

The responsibility for major actions required by this Ordinance is set forth in this Article. The following codes are used in Table 20.110 to indicate responsibility. Regardless of the appeal notation, all decisions are appealable to the courts in accordance with state law.

KEY:

- R** = The body makes recommendations to the decision-makers.
- H** = The body must hold a public hearing.
- D** = The body makes the final decision.
- A** = The body hears an appeal to the decision.

**Table 20.110
PROCEDURAL RESPONSIBILITIES**

Type of Action	Administrative Boards			Administrative Agents			
	City Council	Planning Commission	Board of Zoning Appeals	Staff	Zoning Officer	Hearing Officer	Attorney
Discretionary							
Zoning Text Amendment	D	RH		R			
Zoning Amendment Map	D	RH		R			
Conditional Use	D	RH		R			
Environmental Impact Assessment Report	A	D		R			
Design Review	A	D		R			
Zoning Variance			DH	R			
Street Vacation	DH*			R			
Ministerial							
Plat Approval		R		R			
Land Development Review		R		R			
Variance - Plat/Land Development		D		R			
Administrative							
Limited Use			A	D			
Zoning Permit			A		D		
Occupancy Permit			A		D		
Sign Permit			A		D		
Appeals							
Interpretation			A		D		
Beneficial Use	D			R		HR	
Appeal			DH	R			

* The City Council may refer street vacations to the Planning Commission for comment and recommendation.

DIVISION 20.200 ADMINISTRATIVE BOARDS

SECTION 20.210 CITY COUNCIL

In addition to any responsibility indicated in Table 20.110, the City Council shall have the following powers under this Ordinance:

- A. To approve members of the Planning Commission nominated by the Mayor.
- B. To approve members of the Board of Zoning Appeals nominated by the Mayor.
- C. To designate and appoint Hearing Officers as recommended by the City Attorney and Zoning Officer.
- D. To take such other action not delegated to the Planning Commission, Board of Zoning Appeals, Hearing Officer, or heads of City departments, as the City Council may deem desirable and necessary to implement the provisions of the Comprehensive Plan and this Ordinance.

SECTION 20.220 PLANNING COMMISSION

The Planning Commission shall have the following powers and duties:

- A. To review, hear, consider, and make recommendations to approve or disapprove applications for Zoning Map and Ordinance text amendments, and conditional use permits, as indicated in Table 20.110.
- B. To hear, review, consider, and to approve or disapprove preliminary and final plats for subdivisions, preliminary or final site plans, and concept plans.
- C. To initiate, prepare, or cause to be prepared zoning and subdivision regulations or amendments thereto.
- D. To prepare or cause to be prepared the Comprehensive Plan, or any element or portion thereof, and recommend its adoption.
- E. To initiate, review, hear, consider, and make recommendations to approve or disapprove amendments to the Comprehensive Plan.
- F. To adopt additional or amended rules of procedure consistent with this Section to govern the Planning Commission's proceedings.
- G. To make studies of the City's resources, possibilities, and needs and to report its findings and recommendations, with reference thereto, from time to time, to the City Council.

SECTION 20.221 PLANNING COMMISSION MEMBERSHIP

- A. **Membership.** The Planning Commission shall consist of seven (7) members. Citizen members shall be appointed by the Mayor and approved by the City Council. Although no specific experience requirements shall be necessary as a prerequisite to appointment, consideration shall

be given to applicants who have experience or education in planning, law, architecture, natural resource management, real estate and related fields, and to representatives of neighborhood groups. Two (2) of the members shall reside within the unincorporated Community Growth Area.

- B. **Terms of Office.** All citizen members shall be appointed for a term of four (4) years. The terms shall be staggered with one (1) or two (2) members appointed each year. A vacancy shall be filled for the unexpired portion of the term.
- C. **Officers**
1. **Chair and Vice-Chair.** At an annual organizational meeting, the members of the Planning Commission shall elect a Chair and Vice-Chair from among its members. The Chair=s and Vice-Chair's terms shall be for one year. The Chair shall be in charge of all procedures before the Planning Commission, and shall take such action as shall be necessary to preserve order and the integrity of all proceedings before the Planning Commission. In the absence of the Chair, the Vice-Chair shall act as Chair.
 2. **Secretary.** The Zoning Officer or the city manager=s designee shall serve as Secretary of the Planning Commission. The Secretary shall keep minutes of all proceedings. The minutes shall be a summary of all proceedings before the Planning Commission, which shall include the vote of all members upon every question, and be attested to by the Secretary. The minutes shall be approved by a majority of the Planning Commission members voting. In addition, the Secretary shall maintain all records of Planning Commission meetings, hearings, proceedings, and correspondence.
 3. **Staff.** The city manager=s staff shall be the Planning Commission's professional staff.
- D. **Quorum and Voting.** Four Planning Commission members shall constitute a quorum of the Planning Commission necessary to take action and transact business. Except where otherwise required by law, all actions shall require the affirmative vote of a simple majority of the quorum present.
- E. **Removal from Office.** In the event that any member is no longer a resident, or has three (3) unexcused absences in one (1) year, the City Council shall terminate the appointment of such person as a member of the Planning Commission. For other reasons, the City Council may remove any member upon motion approved by a majority of those voting.
- F. **Compensation.** The Planning Commission members shall serve without compensation, but may be reimbursed for such travel, mileage and/or per diem expenses as may be authorized.

SECTION 20.222 MEETINGS

Planning Commission meetings shall be held on the third Tuesday of each month (as required) to dispense of matters properly before the Planning Commission. Additionally, meetings may be called by the Chairman or at the request of three (3) Planning Commission members. The regular meeting place for Planning Commission meetings shall be accessible to the public. The following shall apply to the conduct of all meetings:

- A. **Rules of Procedure.** The Planning Commission shall, by a majority vote of the entire membership, adopt rules of procedure for the transaction of business and shall keep a record of meetings, resolutions, findings, and determinations. The Planning Commission may provide for transcription of such hearings and proceedings, or portions of hearings and proceedings, as may be deemed necessary.
- B. **Open to Public.** All meetings and public hearings of the Planning Commission shall be conducted in accordance with the Kansas Open Meetings Act.
- C. **Recommendations or Decisions.** All recommendations shall be by roll-call votes of all members present. A tie vote or failure to take action shall constitute a denial recommendation. All recommendations shall be accompanied by a written summary of the action and recommendations.

SECTION 20.230 BOARD OF ZONING APPEALS

The Board of Zoning Appeals shall hear and decide appeals to interpretations and variances as set forth in Table 21.110 and these regulations.

SECTION 20.231 BOARD OF ZONING APPEALS MEMBERSHIP

- A. **Membership.** The Board of Zoning Appeals shall consist of the members of the Planning Commission (see Section 20.221).
- B. **Officers, Quorum, Rules of Procedure**
 - 1. **Chair and Vice-Chair.** At an annual organizational meeting, the members of the Board of Zoning Appeals shall elect a Chair and Vice-Chair from among its members. The Chairs and Vice-Chair's terms shall be for one (1) year. The Chair shall administer oaths, shall be in charge of all procedures before the Board of Zoning Appeals, and shall take such action as necessary to preserve order and the integrity of all proceedings before the Board of Zoning Appeals. In the absence of the Chair, the Vice-Chair shall act as Chair.
 - 2. **Secretary.** The Zoning Officer, or his or her designee, shall serve as Secretary of the Board of Zoning Appeals. The Secretary shall keep minutes of all proceedings. The minutes shall be a summary of all proceedings before the Board of Zoning Appeals, which shall include the vote of all members upon every question, and be attested to by the Secretary. The minutes shall be approved by a majority of the Board of Zoning Appeals members voting. In addition, the Secretary shall maintain all records of Board of Zoning Appeals meetings, hearings, proceedings, and the correspondence.
 - 3. **Staff.** The city manager=s staff shall be the professional staff for the Board of Zoning Appeals.
 - 4. **Quorum, Voting, Rules of Procedure.** Two-thirds (2/3) or more members of the Board of Zoning Appeals shall constitute a quorum necessary to take action and transact business. Four (4) affirmative votes shall be necessary for any variance to be adopted or for any interpretation of the Zoning Officer to be overturned or modified in any way. All other actions shall require a simple majority of the quorum present.
- C. **Removal from Office.** See Section 20.221 E.

D. **Compensation.** See Section 20.221 G.

SECTION 20.232 BOARD OF ZONING APPEALS MEETINGS

At a minimum, meetings of the Board of Zoning Appeals shall be held as required. Additionally, meetings may be called by the Chair or at the request of three (3) members of the Board of Zoning Appeals. The regular meeting place for Board of Zoning Appeals meetings shall be in a place accessible to the public.

- A. **Rules of Procedure.** The Board of Zoning Appeals shall, by a majority vote of the entire membership, adopt rules of procedure for the transaction of business and keep a record of meetings, resolutions, findings, and determinations. The Board of Zoning Appeals may provide for transcription of such hearings and proceedings, or portions of hearings and proceedings, as may be deemed necessary.
- B. **Open to Public.** All meetings and public hearings of the Board of Zoning Appeals shall be conducted in accordance with the Kansas Open Meetings Act.

DIVISION 20.300 ADMINISTRATIVE AGENTS

SECTION 20.310 STAFF

The City Manager, Zoning Officer, and such other employees or consultants as the City Manager designates shall constitute Staff. The City Manager or designated representative shall present Staff recommendations to the City Council, Planning Commission, or Board of Zoning Appeals. Staff shall have the following jurisdiction, authority, and duties under this Ordinance:

- A. To hear, consider and approve/disapprove applications for limited uses.
- B. To review and make recommendations for the disposition of applications for various permits or approvals as indicated in Table 20.110.

SECTION 20.320 ZONING OFFICER

The Zoning Officer shall serve as Staff to the City Manager, Planning Commission, and Board of Zoning Appeals. The Zoning Officer shall be hired by the City Manager. In addition to other powers and duties, the Zoning Officer shall have the following powers, and duties under this Ordinance:

- A. To receive applications for rezoning, development, occupancy, and signs, all other permits for processing pursuant to this Ordinance.
- B. To serve as the Secretary to the Planning Commission and Board of Zoning Appeals pursuant to this Ordinance.
- C. To ensure that adequate public notice is provided for development application pursuant to this Ordinance.

- D. To initiate requests to the City Attorney to institute proceedings against the violators of this Ordinance.
- E. To undertake the Planning Commission's current and long range comprehensive planning responsibilities.
- F. To review, as necessary, the Comprehensive Plan and this Ordinance and recommend amendments to the Planning Commission and City Council.
- G. To review, consider, and render interpretations of this Ordinance or the Zoning Map, and to issue sign permits as required by Table 20.110.
- J. To undertake the day-to-day administration of this Ordinance.
- K. To inspect buildings, uses, developments, or other activities for compliance with this Ordinance.

SECTION 20.330 HEARING OFFICER

The City Council shall appoint one (1) or more Hearing Officer(s) to hear appeals for beneficial use determinations. The Hearing Officer(s) shall serve at the City Council's pleasure for such period as is determined necessary. Hearing Officer(s) shall be compensated at a rate to be determined by the City Council.

A. Minimum Qualifications. A Hearing Officer shall:

- 1. Demonstrate knowledge of administrative, environmental, and land use planning law and procedures.
- 2. Hold no other appointed or elected public office or position in the City during the period of appointment.

B. Duties. A Hearing Officer shall:

- 1. Conduct hearings on appeals for beneficial use determinations and recommend approval, approval with conditions, or disapproval to the City Council.
- 2. Tender to the City Council a written report containing a summary of the testimony and evidence given and findings and recommendations regarding the specific standards applicable to the particular matter.

C. Restrictions on Appearances. Whoever shall accept an appointment as Hearing Officer shall, for a period of one (1) year from the date of termination as holder of such office, not act as agent or attorney in any proceeding, application, or other matter before any City decision-making body in any matter involving land that was the subject of a proceeding, or nearby properties, which was pending during the time served as Hearing Officer.

SECTION 20.340. CITY ATTORNEY

In addition to all other powers and duties conferred upon the City Attorney he or she shall have the following powers and duties under this Ordinance:

- A. To review for form all written findings of fact and resolutions drafted by the Zoning Officer, Planning Commission, or Board of Zoning Appeals, in connection with any Ordinance requirement.
- B. To review for form all development agreements, easements, declarations of covenants, letters of credit, performance guarantees, or other such documentation in connection with any Ordinance requirement.
- C. To advise the City Council, Zoning Officer, Planning Commission, and Board of Zoning Appeals in regard to the legal issues which may arise during implementation of the Comprehensive Plan and this Ordinance.

SECTION 20.350. FLOODPLAIN ADMINISTRATOR

The City Manager of Paola is hereby designated as the Floodplain Administrator under this ordinance. Duties of the Floodplain Administrator shall include, but not be limited to:

- 1. Review of all applications for floodplain development permits to assure that sites are reasonably safe from flooding and that the floodplain development permit requirements of this ordinance have been satisfied;
- 2. Review of all applications for floodplain development permits for proposed development to assure that all necessary permits have been obtained from Federal, State, or local governmental agencies from which prior approval is required by Federal, State, or local law;
- 3. Review all subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, to determine whether such proposals will be reasonably safe from flooding;
- 4. Issue floodplain development permits for all approved applications;
- 5. Notify adjacent communities and the Division of Water Resources, Kansas Department of Agriculture, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency (FEMA);
- 6. Assure that the flood-carrying capacity is not diminished and shall be maintained within the altered or relocated portion of any watercourse; and
- 7. Verify and maintain a record of the actual elevation (in relation to mean sea level) of the lowest floor, including basement, of all new or substantially improved structures;
- 8. Verify and maintain a record of the actual elevation (in relation to mean sea level) that the new or substantially improved non-residential structures have been floodproofed;

9. When floodproofing techniques are utilized for a particular non-residential structure, the floodplain administrator shall require certification from a registered professional engineer or architect.