

CHAPTER XVI. ZONING AND PLANNING

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ARTICLE 1. CITY PLANNING COMMISSION

- 16-101. CITY PLANNING COMMISSION CREATED; MEMBERSHIP. By the authority of K.S.A. 12-701, et seq., there is hereby created by the governing body of the city, a city planning commission which shall consist of seven electors of which number two members shall reside outside of but within three miles of the corporate limits of the city, and the remaining members of the commission shall be residents of the city. All of the members of the planning commission shall be appointed by the mayor, by and with the consent of the governing body. The members of the first planning commission shall be appointed and shall serve for terms of one year, two years and three years, divided equally or as nearly equal as possible, between these terms as one, two and three years. The mayor shall designate the length of the term of each of the first appointed members of the planning commission. Thereafter, all members of the planning commission shall be appointed for terms of three years each. Any vacancy which may occur shall be filled by appointment by the mayor, by and with the consent of the governing body for only the unexpired term. The members of the planning commission shall serve without compensation for their services. (Ord. 208, Sec.1; Code 1987)
- 16-102. MEETINGS; QUORUM; RECORD. The members of the city planning commission shall fix a day of each month for their regular meeting and shall meet at least once a month at such time and place as they may fix by resolution. They shall select one of their number as chairperson and one as vice-chairperson who shall serve one year and until their successor has been selected. Special meetings may be called at any time by the chairperson or in his or her absence or upon his or her failure or refusal, by the vice-chairperson. A majority of the commission shall constitute a quorum for the transaction of business. The planning commission shall keep a detailed typewritten record in at least duplicate copies of all of its proceedings, a copy of which shall be furnished to the city clerk for a permanent record not less than seven days after each meeting. (Ord. 208, Sec.2; Code 1987)
- 16-103. POWERS. The powers and duties of the city planning commission shall be as are enumerated and set out in the Kansas Statutes Annotated, as amended, K.S.A. 12-701 through 12-715. The governing body may prescribe additional powers and duties from time to time. (Ord. 208, Sec.3; Code 1987)

16-104. DUTIES. It shall be the duty of the city planning commission to immediately commence all necessary action to enable it to promptly recommend to the governing body a proper division of the city into zones or districts and to recommend proper regulations and restrictions as to the location of trades and industries and regulations and restrictions concerning the alteration and repair of buildings designed for specific uses, and the uses of the land within each district or zone within the city or within three miles of the corporate limits of the city. The planning commission shall hold public hearings thereon, at such times and places as they may deem necessary and proper. Notice of public hearings shall be given in any newspaper of general circulation which may be published in the city. One publication shall be deemed sufficient, but notice shall be given not less than three days prior to the public hearing. (Ord. 208, Sec.4; Code 1987)

16-105. VALIDITY. Should any section of this article be held or determined to be unconstitutional or invalid, it is the intent of the governing body, that the remainder of this article would have been enacted without the unconstitutional or invalid section. (Ord. 208, Sec.6; Code 1987)

ARTICLE 2. BOARD OF ZONING APPEALS

- 16-201. CREATED. A three-member Board of Zoning Appeals is created and established in accordance with the provisions of K.S.A. 12-741 et seq. and amendments thereto. (Ord. 583; Code 2017)
- 16-202. TERMS. Of the members first appointed, one shall serve for one year, one shall serve for two years, and one shall serve for three years. Thereafter, members shall serve for terms of three years each. Vacancies shall be filled by appointments for the unexpired term. All members of the Board of Zoning Appeals shall serve without compensation. (Ord. 583; Code 2017)
- 16-203. OFFICERS. The Board of Zoning Appeals shall annually elect one of its members as chair, one of its members as vice-chair, and appoint a secretary who may or may not be a member of the board. (Code 1999)
- 16-204. RULES OF PROCEDURE. The Board of Zoning Appeals shall adopt bylaws as required by K.S.A. 12-759(a). (Code 1999)
- 16-205. MEETINGS. Meetings of the Board of Zoning Appeals shall be held at the call of the chair and at such other times as the board may determine. The Board of Zoning Appeals shall keep minutes of its proceedings, showing evidence presented, findings of fact, decisions, and the vote upon each question. (Code 1999)
- 16-206. RECORDS. Records of all official actions of the Board of Zoning Appeals shall be kept in the office of the city clerk and shall be open to public inspection during reasonable office hours. (Code 1999)
- 16-207. POWERS. The Board of Zoning Appeals shall have the following powers:
- (a) To hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by an administrative official in the enforcement of these zoning regulations.
 - (b) To grant exceptions to these zoning regulations on the basis and in the manner hereinafter provided.
 - (c) To grant variances to these zoning regulations on the basis and in the manner hereinafter provided. (Code 1999)
- 16-208. HEARINGS. (a) The Board of Zoning Appeals shall hear an appeal or any other matter referred to it within the time period as provided by the rules of the board.
- (b) Notice of the time, place and subject of such hearing shall be published once in the official jurisdiction newspaper at least 20 days prior to the date fixed for hearing.
 - (c) A copy of the notice shall be mailed by the Secretary of the Board of Zoning Appeals to each party in interest. (Ord. 583; Code 2017)
- 16-209. APPEALS TO THE BOARD. (a) Appeals to the Board of Zoning Appeals may be taken by any person aggrieved, or by any officer of the city or any governmental agency or body affected by any decision of the officer administering the provisions of these zoning regulations.

(b) Such appeal shall be taken within the time as provided by the rules of the Board of Zoning Appeals, by filing a notice of appeal specifying the grounds thereof and the payment of the fee required therefore.

(c) The officer from whom the appeal is taken, when notified by the Board of Zoning Appeals or its agent, shall forthwith transmit to the board all the papers constituting a record upon which the action appealed from was taken.
(Ord. 583; Code 2017)

16-210. EXCEPTIONS. (a) The Board of Zoning Appeals may grant exceptions to the provisions of these zoning regulations in those instances where the board is specifically authorized to grant such exceptions and only under the terms of such regulations.

In no event shall exceptions to the provisions of these zoning regulations be granted where the use or exception contemplated is not specifically listed as an exception in such regulations. Further, under no conditions shall the Board of Zoning Appeals have the power to grant an exception where conditions of this exception, as established in these zoning regulations by the governing body, are not found to be present. (Code 1999)

16-211. VARIANCES. In specific cases, the Board of Zoning Appeals may grant a variance from the specific terms of these zoning regulations which will not be contrary to the public interest and where, owing to special conditions, a literal enforcement of the provisions of the same will, in an individual case, result in unnecessary hardship, and provided that the spirit of these zoning regulations shall be observed, public safety and welfare secured, and substantial justice done. Such variance, however, shall not permit any use not permitted by these zoning regulations in such district. (Code 1999)

16-212. GRANT OF VARIANCES. A request for a variance may be granted upon a finding of the Board of Zoning Appeals that all of the following conditions have been met:

(a) The variance requested arises from a condition which is unique to the property in question and which is not ordinarily found in the same zoning district; and is not created by an action or actions of the property owner or the applicant.

(b) The granting of the variance will not adversely affect the rights of adjacent property owners or residents;

(c) The strict application of the provisions of these zoning regulations of which variance is requested will constitute unnecessary hardship upon the property owner represented in the application;

(d) The variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare; and

(e) Granting the variance desired will not be opposed to the general spirit and intent of these zoning regulations

(Code 1999)

16-213. VARIANCE FROM THE FLOODPLAIN REGULATIONS. The Board of Zoning Appeals shall have the authority to grant variances from said floodplain regulations; provided, however, that in addition to the conditions established in this section, the Board of Zoning Appeals, in passing upon variance applications in the floodplain, shall consider those evaluations, factors, standards, and criteria specified in the

City of Ogden Floodplain Regulations adopted at section 12-101 of the Zoning Regulations of the City of Ogden. (Ord. 583; Code 2017)

- 16-214. DETERMINATION OF BOARD OF ZONING APPEALS. In exercising the foregoing powers, the board of zoning appeals, in conformity with the provisions of this section may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination, appealed from, and to that end shall have all the powers of the officer from whom the appeal is taken, may attach appropriate conditions, and may issue or direct the issuance of a permit. (Code 1999)
- 16-215. APPEALS TO DISTRICT COURT. Any person, official or governmental agency dissatisfied with any order or determination of the Board of Zoning Appeals may bring an action in the district court to determine the reasonableness of any such order or determination. Such appeal shall be filed within 30 days of the final decision of the board. (Code 1999)
- 16-216. VALIDITY. Should any section of this Article be held or determined to be unconstitutional or invalid, it is the intent of the governing body that the remainder of this Article would have been enacted without the unconstitutional or invalid section. (Code 1999)

ARTICLE 3. ZONING REGULATIONS

- 16-301. ZONING REGULATIONS INCORPORATED. (a) New zoning regulations are hereby approved pursuant to K.S.A. 12-749 et seq., which govern the use of land within the corporate limits of the city.
- (b) These regulations were prepared in book form as model regulations by the city planning commission under date of July 6, 1994, following a public hearing as required by state law, and the same is hereby declared to be approved and incorporated by reference as if set out fully herein pursuant to K.S.A. 12-3301 et seq. and K.S.A. 12-3009 et seq.
- (c) No fewer than three copies of the zoning regulations, marked "Official Copy as Incorporated by reference by Ordinance No. 448" and to which there shall be attached a published copy of Ordinance No. 448, shall be filed with the city clerk to be open for inspection and available to the public at all reasonable business hours.
- (d) Pursuant to K.S.A. 12-761, the violation of any provision of the zoning regulations shall be deemed a misdemeanor and any person, firm, association, partnership, or corporation convicted thereof shall be punished by a fine not to exceed \$500 or by imprisonment, for not more than six months for each offense, or by both such fine and imprisonment, and that each day's violation shall constitute a separate offense. The governing body shall further have the authority to maintain suits or actions in any court of competent jurisdiction for the purpose of enforcing any provisions of these regulations and to abate nuisances maintained in violation thereof, and, in addition to other remedies, institute injunction, mandamus, or other appropriate action or proceeding to prevent unlawful construction, erection, reconstruction, alteration, conversion, maintenance, or use, or to correct or abate such violation, or to prevent the occupancy of any building, structure, or land. (Ord. 448, Sec. 4; Code 1999)

ARTICLE 4. FLOODWAY REGULATIONS

16-401. REGULATIONS INCORPORATED. There is hereby incorporated by reference the "Floodplain Management Ordinance 60.3(d) Regulatory Floodway Identified prepared by the Federal Emergency Management Agency, Region VII, and approved by the Kansas Department of Agriculture, Division of Water Resources, Floodplain Management, Topeka, Kansas. One copy of said Floodplain Management Ordinance shall be marked or stamped "Official Copy as Incorporated by the Code of the City of Ogden" with all sections or portions thereof intended to be omitted or changed clearly marked to show any such omission or change, and shall be filed in the City Clerk's office and open for public inspection at all reasonable office hours. (Ord. 543; Code 2017)

ARTICLE 5. STORM WATER DETENTION PLAN

- 16-501. PLAN INCORPORATED. There is hereby incorporated by reference, for the purpose of regulating the analysis and design of storm water detention facilities and enhancing the harmonious development within the corporate limits of the City of Ogden, Kansas, that certain document, 2005 Edition, known as the "Storm Water Detention Plan for the City of Ogden, Kansas." One copy of the Storm Water Detention Plan for the City of Ogden, Kansas shall be marked or stamped "Official copy as adopted by Ord. No. 557," to which shall be attached a copy of the ordinance, and filed with the city clerk to be open to inspection and available to the public at all reasonable hours. (Ord. 557; Code 2017)

ARTICLE 6. SUBDIVISION REGULATIONS

- 16-601. REGULATIONS INCORPORATED. (a) The Ogden Subdivision Regulations, as adopted by the Ogden Planning Commission, on July 9, 2007, are hereby approved, and hereby incorporated by reference into this section.
- (b) It shall be unlawful for any person to fail to comply with the provisions of said Ogden Subdivision Regulations.
- (c) One copy of said Ogden Subdivision Regulations shall be on file in the city clerk's office during office hours for public inspection. Said copy shall be marked "Official copy as incorporated by Ordinance No. 608".
(Ord. 608; Code 2017)