

Article 2. Administrative Bodies

Section 2.01 HARVEY COUNTY PLANNING COMMISSION

Section 2.01.01 CREATION

The Harvey County Planning Commission is hereby established and appointed by the Board of County Commissioners under the authority of K.S.A. 12-744 as enacted and amended.

Section 2.01.02 POWERS AND DUTIES.

The Board of County Commissioners grants to the Harvey County Planning Commission the following powers and duties as set forth in K.S.A. 12-745 et seq.

1. **Comprehensive Plan.** The Harvey County Planning Commission is authorized to make or cause to be made and amend, from time to time, a comprehensive plan for the development of Harvey County. The comprehensive plan shall constitute the basis or guide for public action to insure coordinated and harmonious development or redevelopment that will best promote the health, safety, morals, order, convenience, prosperity and general welfare as well as the wise and efficient expenditure of public funds.
2. **Annual Review of the Comprehensive Plan.** At least once each year, the Harvey County Planning Commission shall review or reconsider the comprehensive plan or any part thereof and may propose amendments, or additions to the comprehensive plan.
3. **Subdivision Regulations.** The Harvey County Planning Commission may adopt and amend regulations governing the subdivision of land, following the adoption of a comprehensive plan. The Harvey County Regional Commission shall determine if a subdivision plat conforms to the provisions of the subdivision regulations. The Harvey County Planning Commission may both approve the plat and allow it to be recorded, or notify the applicant the plat does not conform to the requirements of the subdivision regulations.
4. **Zoning Regulations.** The Harvey County Planning Commission may adopt and amend zoning regulations, following the adoption of a comprehensive plan. The Harvey County Planning Commission shall recommend to the Board of County Commissioners the nature and the number of zoning districts that it deems necessary.
5. **Evaluate Changes in Zoning Boundaries.** The Harvey County Planning Commission shall conduct public hearings related to its powers of planning, zoning and subdivision, and provide the Board of County Commissioners with a recommendation on all proposed amendments to the zoning boundaries.
6. **Approval of Site Plans.** The Harvey County Planning Commission may establish regulations that require the review and approval of site plans to assist in the planned development or redevelopment of a site.
7. **Approval of Preliminary Plats.** The Harvey County Planning Commission shall determine if a preliminary plat conforms to the provisions of the Unified Development Code.

8. **Approval of Final Plats.** The Harvey County Planning Commission shall determine if the final plat conforms to an approved preliminary plan of subdivision and forward the final plat to the Board of County Commissioners to review offers of public dedications and the construction of public facilities.
9. **Variances for Design Standards for Subdivisions.** The Harvey County Regional Planning Commission is authorized to grant variances for the engineering standards in Chapter Two of the Unified Development Code when unusual circumstances so warrant.

Section 2.01.03 **COMPOSITION OF THE PLANNING COMMISSION.**

The Harvey County Planning Commission shall consist of nine (9) members, appointed by the Board of County Commissioners. The Harvey County is divided into three (3) districts. Each district shall consist of three members (3) as specified in the Harvey County Planning Commission and Board of Zoning Appeals Bylaws. All members shall be at least 18 years of age and permanent residents of Harvey County. The Board of County Commissioners may appoint at-large member for any opening if lack of applicants or qualified applicant is not available. All effort shall be made to fill positions from within the district. Members may serve up to (3) three full, (3) year terms. *See Official District Map at the end of this Article.*

Section 2.01.04 **OFFICERS AND VACANCIES.**

The Harvey County Planning Commission shall annually elect one member as Chair and one member as Vice-Chair who shall serve one year and until their successors have been elected. A secretary also shall be elected who may or may not be a member of the Harvey County Planning Commission. Members of the Harvey County Planning Commission shall serve without compensation. The Board of County Commissioners may adopt rules and regulations providing for removal of members of the Harvey County Planning Commission.

Section 2.01.05 **CONDUCT OF MEETINGS AND BYLAWS.**

1. The members of the Harvey County Planning Commission shall meet at such time and place as may be fixed in the Harvey County Planning Commission bylaws. Special meetings may be called at any time by the Chair or in the Chair's absence by the Vice-Chair.
2. The Harvey County Planning Commission shall adopt bylaws for the transaction of business and hearing procedures.

Section 2.01.06 **ADVISORY COMMITTEES.**

The Harvey County Planning Commission may establish subcommittees, advisory committees, or technical committees, who may or may not be members of the Harvey County Planning Commission, to advise or assist in the activities of the Harvey County Planning Commission.

Section 2.01.07 **INTERIM POLICIES AND REGULATIONS.**

The Harvey County Planning Commission may prepare and recommend to the Board of County Commissioners interim policies, rules, and regulations to control specific events and situations arising from time to time. Such interim policies, rules, and/or regulations shall be in effect until regular amendments of the Comprehensive Plan and Unified Development Code are adopted.

Section 2.02 BOARD OF ZONING APPEALS.

Section 2.02.01 CREATION.

The Board of Zoning Appeals for Harvey County is hereby established and appointed by the Board of County Commissioners under the authority of K.S.A. 12-759 et. seq. and Supplement 19-2962 et. seq. as currently enacted and any amendments.

Section 2.02.02 POWERS AND DUTIES.

1. The Board of County Commissioners grants to the Board of Zoning Appeals the following powers and duties as set forth in K.S.A. 12-759 et seq. and K.S.A 19-2962 et seq.
 - A. **Appeals.** The Board shall hear appeals and for other matters referred to it regarding the provisions of the Unified Development Code. The Board shall hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the Zoning Administrator and/or designated deputy in the enforcement of the provisions of the Unified Development Code.
 - a. **Scope of Action.** In cases involving appeals, the Board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination of the Zoning Administrator, and 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.
 - B. **Variances.** The Board may grant a variance in specific cases from the strict terms of the Unified Development Code that will not be contrary to the public interest and where, due to special conditions, a literal enforcement will result in an unnecessary hardship, and provided that the spirit of the regulations shall be observed, public safety and welfare secured, and substantial justice done. A variance shall not permit any use not permitted by the zoning regulations in such district.
 - C. **Floodplain Variances.** The Board shall have the power to hear and grant requests for floodplain variances. In passing upon such applications for variances, the Board shall consider all technical data and evaluations, all relevant factors and standard specified in the floodplain regulations and all criteria and conditions required for granting a floodplain variance.
2. **COMPOSITION OF THE BOARD OF ZONING APPEALS.** The Board of Zoning Appeals shall consist of the membership of the Harvey County Planning Commission. The terms of office for the Board shall coincide with the terms of the Harvey County Planning Commission. Members shall be reimbursed for mileage determined by the Planning and Zoning Director.
3. **OFFICERS AND VACANCIES.** The members of the board shall annually elect one of its members as chairperson, and shall appoint a secretary who may be an officer or an employee of the County. Vacancies shall be filled by the Board of County Commissioners for the remainder of the unexpired term
4. **CONDUCT OF MEETINGS AND BYLAWS.** The Board of Zoning Appeals shall adopt rules in accordance with the provisions of the resolution. All meetings shall be held at the call of the chairperson and at such other times as the Board may determine.

5. **CONDITIONS FOR GRANTING A VARIANCE.** A variance to the terms of this resolution may be granted when the Board of Zoning Appeals find that all of the following conditions have been met:
- A. The variance 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 applicant.
 - B. The variance will not adversely affect the rights of adjacent property owners or residents.
 - C. The strict application of the provisions of the zoning regulations will constitute unnecessary hardship on the applicant.
 - D. The variance will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare.
 - E. The variance will not be opposed to the general spirit and intent of the zoning regulations.

6. **CONDITIONS AND CRITERIA FOR GRANTING A FLOODPLAIN VARIANCE**

- A. A floodplain variance to the terms of this resolution may be granted when the Board of Zoning Appeals find that all of the following conditions have been met:
 - a. Variances may be issued for reconstruction, rehabilitation or restoration of structures listed on the National Register of Historical Places, the State Inventory of Historical Places or local inventory of historical places upon determination.
 - b. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
 - c. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - d. Variances shall only be issued upon (1) showing of good and sufficient cause; (2) a determination that failure to grant a variance would result in exceptional hardship to the applicant; and (3) a determination that granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or resolutions.
 - e. The community shall notify the applicant in writing over the signature of a community official that (1) the issuance of a variance to construct a structure below base flood level will result in increased premium rates for flood insurance up to the amounts as high as \$25 to \$100 of insurance coverage; and (2) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with the record of all variance actions as required.
 - f. All Considerations outlined in the Floodplain Regulations of the Unified Development Code shall be considered prior to granting a floodplain variance.

7. **PERFORMANCE.**

In making any decision varying or modifying any provision of these regulations or in granting an exception, the Board shall impose such restrictions, terms, time limitations, landscaping and other appropriate safeguards to protect adjoining property.

- A. The Board may require a performance bond or irrevocable letter of credit to guarantee the installation of improvements such as parking lot surfacing, landscaping, or drainage modifications. The amount of the bond shall be based on a general estimate of cost for the improvement as determined by the Board, and shall be enforceable by or payable to the Governing Body in the sum equal to 150 percent of the cost of constructing the required improvements.
 - B. In lieu of the performance bond or letter of credit, the Board may specify a time limit for the completion of such required improvements and in the event the improvements are not completed with the specified time, the Board may declare the granting of the application null and void after reconsideration.
- 8. PROCEDURE FOR PUBLIC HEARING.**
- A. **Application.** A person seeking a variance, appeal or exception shall apply in writing, on a form provided by the Zoning Administrator. Any required fees must accompany the form when returned to Zoning Administrator.
 - B. **Scheduling of Public Hearing.** The Zoning Administrator shall notify the Chair of the Board regarding the receipt of an application. The Chair shall set the date and time for a public hearing. No more than sixty (60) days shall elapse after the receipt of an application, unless the applicant requests a continuance.
 - C. **Public Notice.** Notice of the time, place, and subject of the public hearing shall be published once in the official newspaper of Harvey County at least twenty (20) days prior to the date of the hearing. A copy of the notice shall be mailed to the party(s) requesting the variance or appeal as well as the party(s) of interest. Party(s) of Interest include, but are not limited to: fire districts, law enforcement agencies, health agencies, water and sewer districts, airports, township officers, other local and state government officials and departments.
 - D. **Administrative Record.** Minutes of the hearings, showing evidence presented, findings of fact by the Board, decisions of the Board and vote upon each question shall be kept. Records of all official actions of the Board shall be filed in the office of the Zoning Administrator and shall be public record.
 - E. **Notification of Commissioners.** The Board shall notify the Board of County Commissioners of any official action or decision. Any decision of the Board of Zoning Appeals which is contrary to existing zoning regulations shall not be effective until approved by the Board of County Commissioners.
9. **FEES.** The Board of County Commissioners shall establish the fee for a variance, appeal or exception in a separate resolution. The applicant shall pay the fee when the application is filed.
10. **APPEALS FROM ACTION OF BOARD.** Any person, official or governmental agency aggrieved by any order or determination of the Board of Zoning Appeals may, within thirty (30) days of the final decision of the Board, bring action in a court of competent jurisdiction to determine the reasonableness of any such order or determination.

Section 2.02.03 **HARVEY COUNTY BOARD OF COUNTY COMMISSIONERS.**

1. POWERS AND DUTIES.

The following powers and duties are granted to the Board of County Commissioners as set forth in K.S.A. 12-744 et seq.

- A. **Adoption of the Comprehensive Plan.** The Board of County Commissioners must adopt a comprehensive plan or selected sections, and any subsequent amendments before the same shall become effective. The Board of County Commissioners may approve the certified copy of the comprehensive plan, override the recommendations of the plan, or return the plan to the Harvey County Planning Commission for reconsideration. The comprehensive plan and any amendments shall become effective upon publication of the adopting resolution.
- B. **Adoption of Subdivision Regulations.** The Board of County Commissioners shall adopt subdivision regulations or selected sections, and any subsequent amendments before they become effective. The Board of County Commissioners may approve the subdivision regulations, override the recommendations, or return the regulations to the Harvey County Planning Commission. The subdivision regulations and any amendments shall become effective upon publication of the adopting resolution.
- C. **Adoption of Zoning Regulations.** The Board of County Commissioners shall adopt zoning regulations or selected sections, and subsequent amendments before they become effective. The Board of County Commissioners may approve the zoning regulations, override the recommendations, or return the regulations to the Harvey County Planning Commission. The zoning regulations and any amendments shall become effective upon publication of the adopting resolution.
- D. **Acceptance or Refusal of Dedication of Land for Public Purposes.** The Board of County Commissioners shall accept or refuse the dedication of land or facilities for public purposes.
- E. **Zoning Map Amendments and Text Revisions.** The Board of County Commissioners shall consider the recommendations of the Harvey County Planning Commission for a change in the zoning text or map. The Board of County Commissioners may initiate a proposed zoning text or zoning map amendment.

Section 2.02.04 **PLANNING AND ZONING DIRECTOR.**

- 1. **POWERS AND DUTIES.** The Zoning Director, or their authorized representative, shall carry out the duties necessary to administer and enforce the provisions of the Unified Development Code and other duties that may be prescribed from time to time by the Board of County Commissioners or the Harvey County Regional Planning Commission in the furtherance of obtaining compliance with the provisions of Unified Development Code. Specific duties include, but are not limited to:
 - A. Interpret, construe and apply the provisions of the Unified Development Code.
 - B. Provide and maintain public information relative to all matters arising out of the Unified Development Code.
 - C. Keep and maintain all records for the Harvey County Planning Commission and Board of Zoning Appeals.
 - D. Maintain the official zoning map.

- E. Process all applications for changes in zoning boundaries, conditional use permits, site plans, and subdivision plats.
- F. Process all applications for the Harvey County Planning Commission and Board of Zoning Appeals.
- G. Review and approve Lot Splits.
- H. Issue Building Permits and make and maintain records.
- I. Issue Floodplain Permits and make and maintain records.
- J. Conduct inspections of buildings, structures, and uses of land to determine compliance with the provisions of this resolution.
- K. Issue Home Occupation Permits, and make and maintain records.
- L. Issue Occupancy Certificates, and make and maintain records.
- M. Issue Sign Permits, and make and maintain records.
- N. Issue Previously Legal Conforming Use certificates, and make and maintain records.
- O. Issue "Stop Work" notices.
- P. Process all violations.

Section 2.02.05 **REFERRAL AGENCIES AND INDIVIDUALS.**

1. **HARVEY COUNTY CLERK.**

- A. Attests final plats, site plans, and certificates of survey for lot splits.

2. **HARVEY COUNTY ENVIRONMENTAL DIRECTOR.**

The Planning and Zoning Director shall serve as the Harvey County Environmental Director. Duties include:

- A. Review and Inspect sewage treatment systems for compliance with adopted Harvey County Sanitary Codes.
- B. Performs soil tests and perk tests as needed and issues permits for new, replacement and repair of sewage treatment systems.
- C. Issues well permits
- D. Performs real estate exchange inspections of wells and sewage treatment systems and performs water sampling as required by the Harvey County Sanitation Code.
- E. Enforces the Sanitation Code, State Standards and processes all violations.

3. **HARVEY COUNTY HEALTH DEPARTMENT.** Reviews and issues permits for health care, care home and child care facilities.

4. **TOWNSHIP BOARD.** Reviews final plats and makes recommendations to the Board of County Commissioners regarding the acceptance of public dedications and Improvements and Maintenance Agreements.