

Abilene, Kansas Board of Zoning Appeals By-Laws

ARTICLE I - NAME AND AUTHORITY

Section 1 - Name

The name of this organization shall be the Abilene Board of Zoning Appeals, herein called the Board.

Section 2- Authority

Pursuant to Kansas Statutes, as amended, the Board was established by Ordinance No. 895 of the Abilene City Commission (formerly known as the Abilene Board of Commissioners) on January 20, 1951.

ARTICLE II - POWERS AND DUTIES

The Board shall:

- A. Hear and decide on applications for a variance from the provisions of the zoning and subdivision ordinance pursuant to Section 25-6 of the zoning ordinance;
- B. Hear and decide on applications for an appeal of an administrative interpretation pursuant to Section 25-4 of the zoning ordinance;
- C. Conduct other business specifically assigned to the Board of Zoning Appeals by ordinance, City Commission order or State statute.

ARTICLE III - MEMBERS

Section 1 - Composition

The Board shall consist of seven (7) members appointed by the City Commission. One (1) member of the Board may also be a member of the Planning Commission.

Section 2 - Term of Office

Board members are appointed by the City Commission to a term of office for three (3) years. In the event that a member resigns, a successor is appointed for the remainder of the term.

Section 3 - Voting

At all meetings of the Board, each member attending shall be entitled to cast one (1) vote. Voting shall be by voice or by roll call as determined by the Chairman.

The number of votes needed to adopt motions on specific items of business shall be in conformance with the following table.

Table 1: Affirmative Votes Required

Affirmative Votes Required	
6 or 7 Members Appointed (Quorum = 4)	
Number of Members Present	Votes to Approve or Make a Recommendation
7	4
6	4
5	3
4	3

In the event that an item of business receives a majority of the votes cast, but such majority does not consist of the minimum required, such action shall be considered a failure of the motion. The number of votes cast for and against each motion shall be recorded in the minutes.

Section 4 - Conflict of Interest

Any member of the Board who feels that he or she has a conflict of interest (as defined by K.S.A. 75-4301 et. seq.) on any matter that is on the Board's agenda shall voluntarily vacate his seat and refrain from discussion and voting on said item. Any member may raise the question of conflict of interest or possible conflict of interest with respect to any other member present. The question raised must be decided by majority vote of the members present, excluding the member in question.

Section 5 - Absences

The Board may recommend to the City Commission replacement of any member who has three (3) consecutive absences from regular meetings.

Section 6 - Vacancies

Any vacancy resulting from resignation, removal or death of a member serving as Chairman, shall cause the Vice-chairman to automatically assume the position of Chairman and a new Vice-chairman shall be elected. Vacancies shall be filled by appointment by the City Commission.

Section 7 - Ex-Parte Communication

The Kansas Supreme Court has ruled that recommendations and decisions made by local governments on private land use (Variances, Appeals, etc...) are "quasi-judicial". By their nature, quasi-judicial proceedings require that decisions be arrived at in a fair and equitable manner, that all interested parties (pro, con, or neutral) are given ample opportunity to present their case, and that the record clearly show all evidence that was considered in arriving at Board decisions.

The Board desires to conduct all proceedings fairly, to create a record that includes all of the evidence upon which decisions are made, and to prevent the appearance of undue influence on its decisions. Ex-parte communications are contacts between individual Board members and the general public in which information and evidence regarding a variance or appeals application is conveyed to the Board. Members who experience ex-parte communication must disclose the

details of the communication at the Board meeting after the introduction of the item about which the ex-parte communication pertained.

ARTICLE IV - OFFICERS

Section 1

The officers of the Board of Zoning Appeals shall be Chairman, Vice-chairman and Secretary.

Section 2

The Chairman and Vice-chairman shall be elected at the annual meeting and shall serve for a term of one (1) year, and until their successors are elected.

Section 3

The Community Development Director, or his designee, shall serve as Secretary.

Section 4

Any vacancy of office shall be filled by election for the remainder of the normal term.

Section 5

No person shall be eligible to hold the office of Chairman or Vice-chairman for more than two (2) full consecutive one-year terms.

ARTICLE V - DUTIES OF OFFICERS

Section 1 - Chairman

The Chairman shall preside at all meetings of the Board and shall be eligible to vote on all matters coming before the Board. The Chairman has a right to abstain from voting. However, the Chairman must vote in the event of a tie vote or when a motion is one vote short of adoption. He shall appoint all committees and is responsible for conducting all meetings in an orderly manner. The Chairman shall sign all minutes and other approved records, papers and documents of the Board.

Section 2 - Vice-chairman

The Vice-chairman shall perform the Chairman's duties in the absence of the Chairman.

Section 3 - Secretary

The Secretary shall keep accurate records of all proceedings of the Board. He shall be responsible for issuing all necessary correspondence, notices and agendas. He shall be responsible for compiling reports and keeping attendance records. The Secretary shall sign and note approval of the minutes of the Board and shall, when required by law, authenticate the signature of the Chairman.

ARTICLE VI - MEETINGS

Section 1 - Regular Meetings

Meetings of the Board shall be scheduled on an as needed basis in a manner that allows for sufficient public notification and Board preparation. Unless otherwise publicly announced by the

Chairman, all meetings shall be held in the Abilene City Hall, 419 N. Broadway, Abilene, Kansas. Any such change shall be given public notice for the convenience of persons having business before the Board.

Section 2 - Agenda

The Secretary, or other authorized officer, shall prepare an agenda of all matters to come before the Board no later than seven (7) days prior to the next scheduled meeting.

Section 3 - Special Meetings

Special meetings may be called by the Chairman, or in his absence, the Vice-chairman, or upon written request of any three (3) members of the Board. Notice received by letter or phone by Board members and the news media twenty-four (24) hours prior to the scheduled time shall be considered ample notice.

Section 4 - Annual Meeting

The first meeting of each year shall be designated as the annual meeting, at which time officers for the coming year shall be elected.

Section 5 - Quorum

A quorum shall consist of a majority of the members of the Board appointed and qualified at any given time. In the absence of a quorum at any meeting, the presiding officer may adjourn the meeting to a specific time, date and place which shall be publicly announced.

Section 6 - Open Meetings

All meetings of the Board shall be open to the public and to attendance by representatives of the news media.

Section 7 - Minutes Available to Public

The Secretary and the City Clerk shall prepare and permanently maintain the Board's official minutes, which are available for public view and use.

ARTICLE VII - PARLIAMENTARY AUTHORITY

The hearing procedures followed by the Board will be standard parliamentary procedure consisting of the following chronological events.

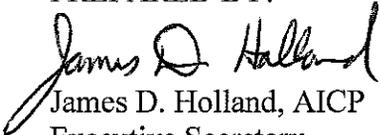
- A. Determination if the applicant or his/her representative is present.
- B. Staff report and recommendation.
- C. Comments by the applicant.
- D. Comments by interested citizens (for, against, or neutral).
- E. Additional comments by the applicant and/or citizens, as appropriate.
- F. Closing of public hearing by the Chairman.
- G. Board discussion and action.

ARTICLE IX - AMENDMENTS

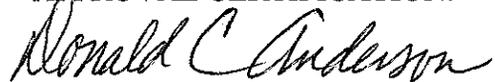
These By-Laws may be amended at any meeting of the Board by a two-thirds (2/3) vote of the members present and voting, provided that any proposed amendment has been submitted in writing at the previous regular meeting.

ADOPTED BY THE CITY OF ABILENE BOARD OF ZONING APPEALS THIS 20TH DAY OF MAY, 2004.

PREPARED BY:


James D. Holland, AICP
Executive Secretary

APPROVAL CERTIFICATION:


Don Anderson, Chairman
Board of Zoning Appeals