

City of Bel Aire

STAFF REPORT

DATE: 09/03/2026

TO: Bel Aire Planning Commission

FROM: Paula Downs

RE: Zoning Code Enforcement

STAFF COMMUNICATION

FOR MEETING OF	9/10/26
CITY COUNCIL	
INFORMATION ONLY	

SUMMARY:

This report provides an overview of the zoning code enforcement process and responds to Commissioner Sutherland's request for discussion regarding enforcement steps, timing, responsible parties, and general historical enforcement information.

Current Discussion

Commissioner Sutherland requested time on the September 10, 2026, Planning Commission agenda to review and discuss the City's zoning violation enforcement process. Clarifying this agenda item resulted in two primary questions:

- What is the enforcement policy for zoning violations, including the steps taken, timelines involved, and staff roles?
- What zoning violations have occurred over the past five years, and how were they resolved?

The enforcement procedures for zoning regulations are established in **Chapter 18 – Zoning Regulations, Article 3 – Administration and Enforcement**. Relevant sections include:

- **18.3.4 – Violations of These Regulations**
- **18.3.5 – Enforcement**
 - Outlines the responsibility of the Zoning Administrator, Building Inspector, or designee to serve as the enforcement officer and explains enforcement duties.

- **18.3.6 – Violation Enforcement Procedures**

- Includes processes for written notices, expanding violations, and emergency abatement measures.

- **18.3.7 – Violations of Prior Regulations**

- **18.3.8 – Civil and Administrative Remedies**

- Lists remedies such as withholding permits or approvals, revoking permits or plans, issuing stop-work notices, civil actions, cumulative remedies, and enforcement of floodplain violations.

- **18.3.9 – Jurisdiction of Municipal Court**

These sections have been included in the agenda packet for Commissioner review.

The Community Development Department does not maintain a standardized database of zoning violations. Instead, cases are handled individually. In most instances, property owners comply once requirements are communicated, and issues are resolved without progressing to formal enforcement procedures.

Conclusion

The zoning enforcement framework in Chapter 18 provides a clear and comprehensive structure for addressing violations, ensuring due process while promoting voluntary compliance. Although historical data is not centrally stored, staff experience indicates that most issues are resolved cooperatively before formal enforcement becomes necessary. The upcoming discussion will give Commissioners an opportunity to evaluate current practices, offer feedback, and consider whether additional guidance is needed.

Article 3. Administration and Enforcement

18.3.1. Zoning administrator as administrative official.

Except where otherwise specifically provided in these Regulations, the Zoning Administrator, or his/her designee, shall be the administrative official charged with interpreting, carrying out, and enforcing the provisions of these Regulations.

18.3.2. Planning commission.

- A. Establishment. A Planning Commission is hereby created and continued in accordance with the authority of K.S.A. 12-744 and amendments thereto.
- B. Membership, Terms and Vacancies.
 - 1. Membership. The Planning Commission shall have seven (7) members, of which two (2) members shall reside in the unincorporated area outside of the City, but within three (3) miles of the planning area of the city as defined in the Comprehensive Plan for the City. The remaining members shall be residents of the City of Bel Aire.
 - 2. Appointment. The members of the Planning Commission shall be appointed by the Mayor, by and with the consent of the city council, in all respects as required by law.
 - 3. Term of Office. The term of office of the members of the Planning Commission shall be for three years. At the end of the three year term, a member may be reappointed to the planning commission with the approval of the city council.
 - 4. Vacancies. Vacancies on the Planning Commission shall be filled by appointment of the Mayor with the consent of the City Council for the remainder of the unexpired term of the Planning Commissioner whose position has been vacated.
 - 5. Removal. Members may be removed for due cause shown including, but not limited to, non-attendance of either regular or special meetings, arriving late to meetings or leaving meetings early, a pattern of non-participation in the decision making process, failure to become familiar with the city zoning regulations and/or subdivision regulations, or failure to familiarize oneself with the cases brought before the Commission.
- C. Officers. The Planning Commission shall elect one (1) of its members as chairperson who shall serve one (1) year and until their successors have been selected. A City staff member shall serve as secretary and provide staff support for the Planning Commission.
- D. Meetings. The members of the Planning Commission shall meet as determined necessary to perform its duties. Meetings may be called at any time by the chairperson or the Zoning Administrator, with twenty-four (24) hours written notice to the membership, and notification provided to the public in conformance with the Kansas Open Meetings Act. A majority of the Commission shall constitute a quorum for the transaction of business. City staff shall keep minutes of the Commission's proceedings and official actions, including its examinations and findings. Following approval and adoption by the Planning Commission, such minutes shall be filed with the City Clerk.
- E. Powers and Duties. The powers and duties of the Planning Commission shall be those authorized by Article 7 of Chapter 12 of the Kansas Statutes Annotated (KSA 12-741, et seq.), and amendments thereto, these zoning regulations, and any other powers and duties as set forth within State or local law.

- F. Procedures. Procedures not set forth within Statute or these Regulations may be defined within the by-laws adopted by the membership of the Planning Commission. Such by-laws may be revised in accordance with the established procedures set forth within such by-laws.

18.3.3. Board of zoning appeals created.

- A. Establishment. Board of Zoning Appeals (BZA or Board) for the City of Bel Aire is hereby created under the authority of K.S.A. 12-713. The Board shall have power to hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement of these Regulations.
- B. Members. The membership of the Board is hereby fixed at three members, all of whom shall be residents of the City. None of the members shall hold any other office of the City, except the Chair of the Board shall also be the Chair of the Planning Commission.
- C. Appointment. The two at-large members of the Board shall be appointed by the Mayor by and with the consent of the city council in all respects as required by law.
- D. Removal. Members may be removed from the Board for due cause shown including, but not limited to, non-attendance of either regular or special meetings, arriving late to meetings or leaving meetings early, non-participation in the decision making process, failure to become familiar with the city zoning regulations and/or subdivision regulations, or failure to familiarize oneself with the cases brought before the Board.
- E. Same; Term of Office. The term of office of the Chair shall be consecutive with that individual's term as Chair of the Planning Commission. The term of office of the at-large members of the Board shall be for three years. At the end of the three year term, the at-large member may be reappointed with the approval of the city council. Vacancies shall be filled for unexpired terms only.
- F. Organization and Responsibilities. The Board shall adopt rules and/or regulations for the conduct of its business in the form of by-laws in accordance with the provisions of the Zoning Regulations. Meetings of the Board shall be held at the call of the chairperson and at such other times as the Board may determine, with public notice in conformance with the Kansas Open Meetings Act. All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings which document the evidence presented, findings of fact by the Board, decision of the Board, the vote of each member upon each question, and whether a member was absent or failed to vote. Records of all official actions of the Board shall be filed with the City Clerk and shall be public record. The Zoning Administrator shall serve as Secretary and staff to the Board, and provide the Board with staff reports and such other information as required by the Board. The Secretary shall have no vote in the matters before the Board.
- G. Dissolution. The Mayor, with the approval of the City Council, may dissolve a duly appointed Board.
- H. Final Decision. Unless otherwise stated herein, any decision of the Board of Zoning Appeals shall be final, and may be appealed to the Sedgwick County District Court in conformance with State law. The decision of the Board shall not be stayed pending appeal unless directed by the District Court.

(Ord. 746)

18.3.4. Violations of these regulations.

Any of the following shall be considered a violation of any permit, approval, certificate or other form of authorization granted by the City, and shall be subject to the enforcement remedies provided by these Regulations and by Kansas State law.

- A. Development or use without, or inconsistent with, permit or approval. To erect, construct, reconstruct, remodel, alter, maintain, move or use any building, structure or sign, or to use, alter or maintain any land without, or in any way inconsistent with, all of the required permits, approvals, certificates and other forms of authorization required by these Regulations.
- B. Development or use inconsistent with these Regulations or the terms of a Permit or License. To erect, construct, reconstruct, remodel, alter, maintain, move or use any building, structure or sign or to use, alter or maintain any land in violation of any zoning, subdivision or general regulation of these Regulations or any Permit or License issued pursuant to these Regulations.
- C. Development or use inconsistent with conditions. To violate, by act or omission, any term, condition or qualification placed by the City upon a required permit, certificate, rezoning, plan approval or other form of authorization granted by the City to allow the use, development or other activity upon land or improvements thereon. This includes occupying any building or structure which requires a Certificate of Occupancy for which there is not a valid Certificate of Occupancy.
- D. Making lot or yard nonconforming. To reduce or diminish any lot area so that the yards or open spaces shall be smaller than prescribed by these requirements or the final plat or plan.
- E. Increasing use intensity. To increase the intensity and/or density of use of any land or structure, except in accordance with the procedural and substantive requirements of these Regulations.
- F. Remove, deface, obstruct, or prevent notice. To remove, deface or obscure any sign required by these Regulations, or otherwise interfere with any notice required by these Regulations.

18.3.5. Enforcement.

It shall be the duty of the Zoning Administrator and/or Building Inspector, or any designee, to serve as the enforcement officer for these Zoning Regulations. Such enforcement officer shall enforce the provisions of these Regulations and refuse to issue any permit allowing any building or structure to be constructed or to use any premises in violation of any of the provisions hereof, and to cause any building, structure, place, or premises to be inspected and examined, and to order in writing the remedying of any condition found to exist therein in violation of any provision of these Regulations. In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure, or land is used in violation of these Regulations, the building inspector is hereby authorized and directed to institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use, to restrain, correct, or abate such violation and to prevent the occupancy of the building, structure, or land, or to prevent any illegal act, conduct, or use in or about such premises in any manner provided for in these Regulations or in State law.

18.3.6. Violation enforcement procedures.

- A. Written Notice. In the case of violations not involving continuing construction, expansion of the violation, or emergency situation, the City shall give written notice of the nature of the violation to the owner, occupant or agent of the property at the last known address in conformance with K.S.A. 12-1617e. The contents of the notice shall give a description of the nature of the violation

that would reasonably allow the property owner or other responsible person, representative or tenant to determine the nature of the violation to allow for self-abatement, and provide for a minimum of five (5) days to perform such abatement.

- B. Expanding Violation. If an authorized agent of the City makes a reasonable determination that a violation of either these Regulations or the approved plan, license, or permit has occurred, and such violation involves continuing construction or is otherwise expanding the nature of the violation or the harm, the City may take immediate action so as to limit or reduce the harm, cost, or extent of the violation. The Enforcement Officer may issue a notice to immediately stop, either temporarily or permanently, the identified continuing or expanding violation through any available remedy, , including, but not limited to: permit revocation, stop work, withdrawal of Certificate of Occupancy, and/or filing a complaint in conformance with Section 3.09, and/or seeking civil remedy.
- C. Emergency Abatement. Any party submitting, applying for, or accepting any plan, license or permit associated with construction within the City acknowledges and accepts the City's authority to take immediate enforcement action to abate emergency situations deemed a hazard to the health, safety, and welfare of the community, or any individual thereof. No other notification procedures are required as a prerequisite to such immediate enforcement action.

18.3.7. Violations of prior regulations.

All violations of prior zoning regulations of the City, or any Sedgwick County, or township regulations that have accrued in the City as of the effective date of these Regulations, shall continue to be violations. Additionally, the City may secure civil remedies for any such violations of such Regulations.

18.3.8. Civil and administrative remedies in response to violations.

The City shall have the following remedies and enforcement powers:

- A. Withhold permits or approvals. The City's enforcement officer may deny or withhold all permits, certificates, plan or plat approvals or other forms of authorization on any building, structure or land, or improvements thereon, upon which there is an uncorrected violation of any provision of these Regulations or of a condition or qualification of a permit, certificate, approval or other authorization previously granted by the City. Alternatively, the City may grant such authorization subject to the condition that the violation be corrected. The provisions of this subsection shall apply regardless of whether the current owner or applicant is responsible for the violation in question.
- B. Revoke permit(s).
 - 1. A permit may be revoked by the Zoning Administrator, or his/her designee, at any time, when it appears to such official that one (1) or more of the following conditions are present:
 - (a) There is departure from the plans, specifications or conditions as required under the terms of the permit.
 - (b) That the permit was procured by false representation.
 - (c) That the permit was issued by mistake, or
 - (d) That any of the provisions of these Regulations are being violated.

2. Written notice of such revocation shall be served upon the owner, the owner's agent or contractor, or upon any person employed in the building or structure for which such permit was issued, or shall be posted in a prominent location on the property. Where notice of revocation has been served or posted, no further construction or use of the property shall proceed. Failure to abide by a Stop Work Order issued in association with a revocation of a permit is a violation of this section and is subject to prosecution in conformance with Section 3.09.
 3. Any revocation of a permit may be appealed in writing to the City Manager within five (5) days of any such revocation. The City Manager shall make a written response to such appeal. Such written response shall be appealable to the BZA.
- C. Stop work. With or without revoking permits, the enforcement officer may stop work on any development, building, or structure on any land on which there is an uncorrected violation of a provision of these Regulations or a violation of a condition or qualification of a permit, certificate, approval or other authorization previously granted by the City. Failure to abide by a Stop Work Order is a violation of this Section and is subject to prosecution in conformance with Section 3.09.
 - D. Revoke plan or other means of approval. Where a violation of these Regulations involves a failure to comply with all terms of approved plans, including conditions upon which the approval of such plans was made contingent, the City shall, upon notice to the applicant, revoke the plan. Subsequent reinstatement of such plan shall be conditioned upon strict compliance with all terms of such plan, including such additional terms as the City may reasonably impose to assure compliance with the terms of the plan or other approval.
 - E. Civil remedies. The City shall have the authority to maintain civil suits or actions in any court of competent jurisdiction for the purpose of enforcing the provisions of these Regulations and to abate nuisances maintained in violation thereof. In the event that any building or structure is proposed to be erected, constructed, altered, converted, occupied, or maintained in violation of these Regulations, any appropriate authority of the City may institute injunction, mandamus or other appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance, occupation, or use or to correct or abate such violation or to prevent the occupancy of such building, structure or land.
 - F. Cumulative. These remedies shall be cumulative.
 - G. Flood Plain Violations. Any person, company, corporation, institution, municipality, or agency of the state that violates any provision of the flood plain provisions of these regulations shall be subject to the penalties and remedies as provided in these Regulations, in accordance with K.S.A. 12-761. Such remedies may also be instituted by the Attorney General and the Chief Engineer of the Division of Water Resources of the Kansas State Board of Agriculture.
 - H. Other remedies. In addition to the enforcement powers and remedies specified in this title, the City may exercise any and all enforcement powers and remedies granted to it by Kansas State law, as it may be amended from time to time.

18.3.9. Jurisdiction of municipal court.

In addition to any other civil or criminal response to violations, violations of any provision of these Regulations may be prosecuted in the municipal court of the City.

All real and personal property owners, developers, individuals obtaining licenses to complete any plan or project, and contractors/subcontractors performing work within the City in conformance with such plan shall be liable for any violation of these Regulations associated with their property, license, job, project, or work performed, and may be cited for such violation in their individual capacity.

Any violation of the provisions of these regulations shall be an unclassified misdemeanor and shall be punishable by a fine of not to exceed \$500 or by imprisonment for not more than thirty (30) days for each offense, or by both such fine and imprisonment. Each day's violation shall constitute a separate offense.