

STAFF REPORT

DATE: 11/06/2025

TO: Bel Aire Planning Commission
FROM: Paula Downs
RE: BZA Bylaws

STAFF COMMUNICATION

FOR MEETING OF	11/13/2025
CITY COUNCIL	
INFORMATION ONLY	

SUMMARY:

Board of Zoning Appeals Bylaws

Background:

At the October 9, 2025, Planning Commission meeting the Planning Commission/Board of Zoning Appeals was provided with draft Board of Zoning Appeals (BZA) Bylaws. This was the initial introduction of the Bylaws.

The BZA Bylaws closely mimic the approved Planning Commission Bylaws with modification in language to reflect what was specifically needed for the Board of Zoning Appeals.

Current Discussion:

The Secretary received feedback from the Planning Commissioners on the draft BZA Bylaws document. Below are the suggestions that were received and the italicized text is the staff response for each item for BZA review:

Article I: Creation and Membership

1. Membership Minimum (Section 2): Since the Bylaws specify a Planning Commission of seven members, should we consider adding language to address how the BZA would manage its business if the Commission's membership happened to fall below seven for an extended time?
 - o *If the Planning Commission member number changes, then the Planning Commission Bylaws and BZA Bylaws would need to be changed. Currently the information is accurate, and no changes are required.*
 - o *The BZA can discuss this and request the change be added. If approved, the Planning Commission Bylaws would need to be amended.*
2. Attendance Consistency (Section 3): To make sure the attendance rule is perfectly clear, perhaps we can clarify the reference to "three consecutive regular meetings" by specifying it means "regular BZA/Commission meetings." This small change would ensure consistency across the members' dual roles.

- *The current language reflects what is included in the Planning Commission Bylaws as recommended by the Planning Commission. Because the Planning Commission serves at the Board of Zoning Appeals, the same attendance requirements apply. The language is accurate, and no changes are needed.*
 - *The BZA can discuss this and request the change be added. If approved, the Planning Commission Bylaws would need to be amended.*
3. Conflict of Interest Cross-Reference (Section 4): This section is excellent, and to make it even easier to implement in a meeting, we could add a quick cross-reference here, reminding members that a disqualified vote also means the person is not counted for quorum on that specific item (as detailed in Article III, Section 6).
- *Section 4 provides language related to what happens should a BZA member have a conflict of interest.*
 - *For clarification, the separation of language makes it easy to review the “quorum” requirements contained in (Article III, Section 6).*
 - *For clarity and any future updates, it is helpful to keep language contained in its own sections so it can easily be referred to.*
 - *No changes were made to Section 4.*
 - *The BZA can discuss this and request the change be added. If approved, the Planning Commission Bylaws would need to be amended.*

Article II: Officers and Duties

1. High-Priority Note on Record Retention (Section 3.3a): The Bylaws state that the meeting recording is deleted once the minutes are approved. Suggest rewording this: to be fully compliant and legally sound, should it be adjusted by replacing "deleted" with something that aligns with the City's official records retention schedule; perhaps stating that the recording is "disposed of in accordance with the City's official records retention policy."
 - *The detailed meeting minutes are developed to create a record of what occurred during a meeting.*
 - *At this time, we are not required to keep the audio recording of the meeting.*
 - *The BZA can discuss this and request the change. If approved, the Planning Commission Bylaws would need to be amended.*
2. Election Month (Section 2): The draft states that officer elections are held at the regular Commission meeting in October. Since elections were not conducted this year in October, could we clarify if the intended month should be revised to November, or if the Governing Body needs to adopt a special motion to ensure the timing is set moving forward?
 - *Elections not occurring in October was an oversight.*
 - *Moving forward, the Planning Commission will conduct elections at their October meeting as set out in the Planning Commission Bylaws and BZA Bylaws.*

Ideas for Long-Term Strength and Efficiency

1. Simple Definitions Section: To improve readability, especially for new members, we could begin with a very brief Article I, Section 1: Definitions. This would clearly establish terms like BZA, Commission, Governing Body, and especially the Senior Commissioner, right at the top.
 - *This item can be discussed by the BZA and if requested it can be drafted and included.*
 - *A definitions section would also need to be discussed and included in the Planning Commission Bylaws.*
 - *This can be done at a future date after research and development.*

2. Future-Proofing the Procedures

- a. Electronic/Remote Meeting Flexibility: Thinking ahead, it might be beneficial to add a section discussing the possibility of electronic or remote participation for meetings. This would ensure the Bylaws are prepared for emergencies or future practices, provided we keep it compliant with the Kansas Open Meetings Act.
 - *This topic can be a future topic that would need to be discussed, reviewed by the City, and implemented by both the Planning Commission and BZA.*
 - *Both Bylaw documents would need to reflect the process and requirements related to electronic/remote meeting participation.*
- b. Parliamentary Procedure Training (Article IV, Section 5): The section on Robert's Rules is comprehensive, but since specific motions (like "Point of Order") are rarely used, perhaps we could include a suggestion for annual training for BZA/Commission members on parliamentary basics. This would promote confidence and even more efficient meeting management.
 - *Parliamentary Procedure training can be added to the annual training schedule.*
 - *This request is not required to be part of the Bylaws unless requested and approved by the BZA.*
 - *This request would be required to be added to the Planning Commission Bylaws document.*

Recommendations of permanent staff

Staff recommend approval of the BZA Bylaws pending the outcome of BZA review.

(Published at www.belaireks.gov on November, _____, 2025.)

RESOLUTION NO. _____

A RESOLUTION ESTABLISHING BYLAWS FOR THE
CONDUCT OF BUSINESS BY THE BOARD OF ZONING
APPEALS OF THE CITY OF BEL AIRE, KANSAS.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF BEL AIRE, KANSAS:

ARTICLE 1 – CREATION, MEMBERSHIP, AUTHORITY AND DUTIES

SECTION 1. CREATION. Pursuant to City ordinance and state law the Bel Aire City Board of Zoning Appeals, (hereinafter referred to as the “BZA”) was established by Ordinance No. 746 which was published on September 4, 2025. This is a test line.

SECTION 2. MEMBERSHIP. The Planning Commission (hereinafter referred to as the “Commission”), which consists of seven members, shall serve as the BZA pursuant to K.S.A. 12-759(g), as amended.

SECTION 3. ATTENDANCE. Regular attendance is an important responsibility for membership. Maintaining a quorum for voting purposes is especially important. Any member that absences themselves for three consecutive regular meetings or misses a total of five meetings during a calendar year, the Secretary will provide written notice to the City Manager, and the Mayor who may elect to remove the member.

SECTION 4. CONFLICT OF INTEREST. Members of the BZA shall be aware at all times of their responsibility to the citizenry of the City of Bel Aire and to the residents of the surrounding Planning Area and shall refrain from any recommendation or action that would benefit individuals or special interest groups rather than serve the best interest of the entire community. In furtherance of this responsibility, members shall refrain from recommending or acting on any matter before the BZA in which they have, either directly or indirectly, any financial interest or use their influence or position to show favoritism that could lead to the development of a clientele at a later date.

If a member is asked if they have a conflict of interest on a matter before the BZA, that member shall publicly announce the conflict and excuse themselves from the meeting room until the matter has been addressed by the remaining BZA members. If there is a question or a real or perceived conflict of interest, the affected member should contact the Secretary and City Attorney for an interpretation of the situation prior to the meeting.

A member is automatically disqualified when they or their spouse own property in the notification area of a variance case.

SECTION 5. AUTHORITY. The BZA shall discharge such duties, perform such functions and exercise such jurisdiction as are delegated to it from time to time by the Zoning Regulations of the City.

SECTION 6. COMPENSATION. Members of the BZA shall serve without compensation for their services; however, the members may request reimbursement for their out-of-pocket expenses including travel when related to attendance at external conferences and/or meetings subject to approval of the Governing Body.

ARTICLE II -- OFFICERS, ELECTIONS AND DUTIES

SECTION 1. OFFICERS. The officers of the BZA shall consist of a Chairperson, Vice-Chairperson and Secretary. The Chairperson and Vice Chairperson shall be members of the Commission. The Secretary shall be the City of Bel Aire Zoning Administrator and shall provide duties in support of the BZA (K.S.A. 12-745).

SECTION 2. ELECTIONS. At the regular Commission meeting in October of each year, the officers shall be nominated and those persons receiving the highest number of votes shall be deemed elected. The officers hold the elected role for both the Commission and BZA concurrently, for one year. Officers shall take office at the next regular scheduled meeting of the Commission and BZA. Officers may serve for more than one term.

SECTION 3. DUTIES. The duties of the officers shall be:

1. The Chairperson shall preside over all meetings of the BZA. In the absence of the Chairperson, the Vice-Chairperson shall preside. In the absence of both the Chairperson and the Vice-Chairperson, the Senior Commissioner (the person serving the longest period of time on the Commission) shall act in the manner and capacity of the Chairperson. The Chairperson shall sign all minutes and other official papers and documents to indicate that they have been approved by the BZA. The Chairperson shall represent the BZA at all meetings with other groups unless another member is designated to perform that function.
2. The Vice-Chairperson shall act in the manner and capacity as the Chairperson in the absence of the Chairperson.
3. The Secretary, or their designee, shall perform the following duties:
 - a. Prepare the minutes of each BZA meeting and submit them to the BZA for approval. BZA meetings are recorded and once the BZA has approved the minutes the recording is deleted. When the Secretary attests to the approved minutes the Secretary is attesting that the votes of the members are accurate from that specific meeting.
 - b. Maintain the official minutes as approved and signed by the Chairperson and the Secretary or their designees and post minutes to the City of Bel Aire website or such other repository as may be established from time to time;

- c. Prepare and distribute agendas for each BZA meeting in coordination with-the Chairperson.

ARTICLE III – MEETINGS

SECTION 1. REGULAR MEETINGS. Regular meetings of the BZA will be in conjunction with the Planning Commission on the second Thursday of every month, unless changed by the BZA. All meetings shall be held in the Council Room of City Hall beginning at 6:30 p.m.; provided, however, that the BZA may vote to adopt another hour, date, or place of meeting. Any such change shall be published for the convenience of persons having business before the BZA.

SECTION 2. SPECIAL MEETINGS. Special meetings may be called by the Chairperson or in the Chairperson's absence by the Vice-Chairperson or Senior Commissioner upon written request of any three members of the Commission. When a special meeting is called, reasonable notice as to date, time, place, manner and purpose for the meeting shall be given by the Chairperson at least 24 hours before the meeting by mail, hand delivery or telephone. The announcement of a special meeting at a regular meeting shall constitute notice to those persons present. BZA members and the Governing Body shall be notified by the Chairperson including all persons designated to receive agendas on a regular basis. (See Article III, Section 7 on Agendas.). No items other than those identified in the notice shall be considered at a special meeting.

SECTION 3. ADJOURNED MEETINGS. If the business before the BZA is not completed, the BZA by motion may adjourn the meeting or a specific agenda item to a specified date, time and place until the matters on the original agenda or the specified item are acted upon. When such a motion is made known to those persons in attendance, no further notice need be given.

SECTION 4. OPEN MEETINGS AND CLOSED SESSIONS. Pursuant to the Kansas Open Meetings Act, all meetings of the BZA except for executive sessions are open to the public. Closed sessions, if deemed necessary, may be held in accordance with the provisions of the Kansas Open Meeting Act. The motion to recess for a closed/executive session shall be placed in the minutes and include (a) a statement describing the subjects to be discussed; (b) the statutory justification for closing the meeting; and (c) the time and place at which the open meeting will resume, all in accordance with the Kansas Open Meetings Act, K.S.A. 75-4317 *et seq.* In such closed sessions, no binding vote or action may be taken.

SECTION 5. WORKSHOP SESSIONS. The BZA may meet at a regular or special meeting in a workshop session for a general discussion on one or more topics or for a training session; however, the Kansas Open Meetings Act applies, and no binding action may be taken. While regular minutes are not required, a record of attendance and a summary of the subject(s) discussed should be made.

SECTION 6. QUORUM. A quorum for the conduct of business shall be four members. In the absence of a quorum at any meeting the presiding officer after consultation with the members present may announce the meeting will not take place. The presiding officer will wait ten (10) minutes and then make the announcement. The Secretary will note which BZA members were present and note that no action was taken on any of the agenda items. In addition, the Secretary will note anyone present at the meeting and specifically what agenda item(s) they were present for.

If there is a loss of a quorum during a meeting, the presiding officer after consultation with those members present, may adjourn the meeting to a specified date, time and place or similarly table any unheard an agenda item. When such information is made known to those persons in attendance, no further notice needs to be given. The Secretary will note which BZA members left the meeting and note that no action was taken on any of the agenda items yet to be heard. In addition, the Secretary will note anyone present at the meeting and specifically what agenda item(s) they were present for.

Members abstaining from voting may be counted when determining whether a quorum is present; however, members having a conflict of interest or who are disqualified from voting may not be counted as part of the quorum for the item where they have a conflict of interest or are otherwise disqualified from voting.

If a majority of BZA members have a conflict of interest on a specific agenda item, they will request that the Governing Body hear the item in a public hearing format. The agenda item will require renotification to all required individuals.

SECTION 7. AGENDAS. The Secretary shall oversee the preparation of an agenda of all matters to come before the meeting and to have it posted on the City of Bel Aire website with the link shared, via email, to the BZA members in advance of the meeting. Copies of the agenda shall be posted to the City of Bel Aire website, or such other repository as may be established from time to time and be furnished to each party having an item on the agenda and to any person requesting an agenda or a notice of the date, time and place of a regular or special meeting of the BZA under the Kansas Open Meetings Act. K.S.A. 75-4318 (b) and(d). Any member of the BZA may place items on the agenda by advising the Secretary, or their designee, no later than noon on the seventh day preceding the next regular meeting. If the number of applications received creates an unduly long BZA meeting, the Secretary may carry over such items on a first-come, first-served basis to the next BZA meeting unless already advertised for public hearing.

SECTION 8 RECORDING OF MEETINGS. The Secretary or their designee shall keep complete records of all proceedings of the BZA. The Secretary or their designee shall prepare and maintain permanent minutes to be available for public view. Minutes shall be posted on the City of Bel Aire website or may be furnished to all persons or bodies making such a request to the Secretary or City Clerk. The Secretary or City Clerk may make such charges as are necessary to recover the cost of making such copies.

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184 **ARTICLE IV – CONDUCT OF MEETINGS**
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186 **SECTION 1. ORDER OF BUSINESS.** The general order of business shall be as follows
187 unless otherwise decided by the Commission:

- 188 a. Call to Order
189 b. Roll call
190 c. Consent Agenda
191 d. Approval of the Agenda
192 e. Approval of the minutes
193 f. Announcements
194 g. Old and New Business
195 h. Public hearings
196 i. Adjournment.

197 Off-agenda items may be added to the agenda and scheduled items may be removed from
198 the agenda at the beginning of a regular meeting by motion approved by a majority of the
199 Commission members present and voting. No items may be added to the agenda of the
200 special meeting.
201

202 **SECTION 2. APPEARANCE BEFORE THE COMMISSION.** When a public forum
203 or public hearing is held, applicants and petitioners or their representatives and members
204 of the community at large or individuals or their representative who feel that they will be
205 affected by any action of the BZA may appear to present views and statements either for
206 or against agenda items. Personal appearance before the BZA is recommended; however,
207 written communication may be submitted to the BZA. The BZA may at their discretion to
208 table postpone items coming before the BZA if the applicant or petitioner is not present
209 and has not submitted written communication.
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211 **SECTION 3. ACTIONS.** In all formal matters, the BZA shall act by motion unless an
212 ordinance or resolution is required by law or governmental regulations. All notices required
213 by law to be given by publication including those for public hearings shall be published in
214 the officially designated city newspaper. Substantive motions before the BZA shall be
215 restated by the presiding officer before a vote is taken. Every motion on a substantive
216 matter shall set forth reasons based on the discussion. Action shall be taken on each agenda
217 item presented at the conclusion of discussion of that item.
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219 **SECTION 4. VOTING.** Unless otherwise provided by state law or by ordinance of the
220 City, the BZA shall act by a majority vote of the members present and voting. A record of
221 all proceedings of the BZA shall be kept. Voting shall be by individual voice “Aye” or
222 “Nay” ballot, written ballot or show of hands; shall be tallied and the results determined by
223 the presiding officer. In the event of a tie or a divided vote, see Article IV, Section 5
224 paragraph 8 and 9.

SECTION 5. PARLIAMENTARY PROCEDURE. All meetings of the BZA shall be conducted in accordance with the current edition of Robert's Rules of Order except insofar as modified by these Bylaws and procedures adopted by the BZA, unless otherwise required by state law:

1. A second shall be required for all motions.
2. The presiding officer shall have the right to make motions and to second motions without vacating the chair.
3. Substitute motions may be made for prime motions provided that substitute motions are voted on before the prime motion. Substitute motions shall be made only once and shall be debatable only if the prime motions were debatable. A substitute motion may be made without the consent of the maker of the prime motion.
4. Motions to reconsider any items shall be made by one of the members voting in favor of the item to be reconsidered. Motions to reconsider shall only be considered at the same meeting at which the item was decided.
5. If participation from the floor (audience) is repetitious; or when the course of business due to the number of matters to be considered and/or number of people requesting to be heard will not reasonably permit further participation, the presiding officer may reduce their speaking time to five minutes or something less. Those persons speaking on a given item from the floor should first be recognized and then address their remarks to the presiding officer. Each member of the BZA may speak to an issue as many times as may be desired.
6. The presiding officer shall have the right to vote. If the officer chooses not to vote, he or she shall automatically be considered to have abstained from voting.
7. When a divided vote occurs, the presiding officer shall call for a roll-call vote. The Secretary shall enter into the minutes the result by name of all roll-call votes.
8. Any member abstaining or remaining silent on a vote shall be considered to have voted with the majority vote of those who voted; provided that, such member does not have a conflict of interest or bias in the matter that would otherwise disqualify them from voting. In the event of an equally divided vote, the vote of a member abstaining or remaining silent is not to be counted. Members who do abstain or remain silent on a vote are still counted as present in determining a quorum.
9. Members shall automatically be disqualified from voting when they or their spouse own property in the area of notification for a variance case. Such abstention shall not prevent them from appearing before the BZA to speak on the variance case. When a member is disqualified from voting, they cannot be counted as present for the quorum.

10. Subject to these provisions, the presiding officer shall decide all points of order and procedure, unless it is overruled by a majority vote of the entire membership of the BZA.

ARTICLE V – HEARING PROCEDURES

SECTION 1. INTENT AND PURPOSE. It is the intent of the BZA to hold fair and impartial hearings on all matters requiring a public hearing at which adequate legal notice has been given to all concerned parties. The purpose of such hearings is to make it clear that decisions are based on the relevant evidence presented and that well organized hearings and procedures will lead to legally defensible decisions which are not arbitrary, discriminatory or unreasonable. To ensure fairness, the hearing room should be able to accommodate all persons wishing to attend and to enable them to properly hear the proceeding.

Ex parte contacts, i.e., those contacts in the forms of verbal or written communications outside of a hearing are discouraged. BZA members should (a) come to a hearing favoring neither side; (b) have no personal interest in the outcome other than that shared by the community-at-large; (c) treat both sides fairly and impartially; and (d) base their decision solely on the facts presented as evidence before the BZA. Any facts determined by personal investigation should be reported to the BZA at the hearing as *ex parte* information.

SECTION 2. ORDER OF PROCEEDINGS FOR PUBLIC HEARINGS. Proceedings requiring public hearings are considered quasi-judicial proceedings. The latter includes the procedural due process elements of notice and opportunity to be heard in a fair, open and impartial manner. According to K.S.A. 12-757, the BZA must create an accurate written summary of the proceedings for appeals, variances, exceptions and similar matters. This summary should include the evidence presented, findings of fact, and the factors considered in reaching a decision to recommend approval or denial. Additionally, the minutes should reflect the BZA's recommendations and the reasons for those recommendations. The following order of proceedings shall be used for all such public hearings:

1. Determination that a quorum is present.
2. Determination that proper notice has been given.
3. Report of *ex parte* contacts with Commission members.
4. Introduction of application or appeal by staff.
5. Presentation by applicant shall be limited to five minutes unless such time is extended by the commission.
6. BZA and staff question applicant.

7. Public comments on proposed application. Each presenter shall speak no more than once per issue and shall be limited to five minutes unless such time is extended by the BZA.
8. Receipt of written communications or petitions.
9. Applicant presents closing comments, which shall be limited to five minutes unless such time is extended by the BZA.
10. Staff presents closing comments.
11. Public portion of the hearing closed by the presiding officer.
12. BZA deliberations.
13. Review findings and factors on which recommendation is based.
14. Motion for approval, disapproval or modification of the application or to table the agenda item to a specific date, time and place.

While no further public comments will be received after the hearing is closed, the BZA may question any participant at any time during the proceedings.

ARTICLE VII – AMENDMENTS TO BYLAWS

SECTION 1. AMENDMENTS. The BZA may, by a majority vote of the entire membership thereof, and upon approval by the Governing Body of the City, amend these Bylaws or any provisions or sections thereof, at any time when the same is not in conflict or in contradiction of any of the laws of the State of Kansas or ordinances of the City of Bel Aire, Kansas. The BZA shall review the Bylaws, no less than every three (3) years to ensure timely and appropriate updates are made if necessary.

Notices of the proposed amendments shall be furnished by the Secretary to all members of the BZA and the Governing Body not less than seven calendar days prior to the meeting at which such amendments are to be considered. A current copy of the Bylaws of the BZA and such amendments thereto as may from time to time be adopted, shall be maintained by the Secretary and filed with the City Clerk

SECTION 2. ADOPTED. The above and foregoing Bylaws are hereby adopted as the Bylaws of the City of Bel Aire City BZA and recommended for approval of the Governing Body of the City of Bel Aire, Kansas.

SECTION 3. SEVERABILITY.

In the event that any portion or section of this resolution is determined to be invalid, illegal or unconstitutional by a court of competent jurisdiction, such decision shall in no manner affect the remaining portions or sections of this resolution which shall remain in full force and effect.

SECTION 4. EFFECTIVE DATE

This resolution shall take effect and be in force from and after its publication in the official city newspaper.

SECTION 5. REPEALER

All other resolutions, ordinances, parts of other resolutions or ordinances in conflict herewith are repealed. However, any section of an existing resolution or ordinance not in conflict herewith is not repealed and remains in full force and effect.

ADOPTED by the Board of Zoning Appeals of the City of Bel Aire, Kansas, on the 13th day of November, 2025.

SIGNED by the Presiding Officer on the 13th day of November, 2025.

CITY OF BEL AIRE, KANSAS

Phillip Jordan, Chairperson

ATTEST:

Paula L. Downs, Secretary

APPROVED AS TO FORM ONLY:

Maria A. Schrock, City Attorney

PASSED AND APPROVED by the Governing Body of the City of Bel Aire, Kansas, on the _____ day of _____, 2025.

SIGNED by the Mayor on the _____ day of _____, 2025.

CITY OF BEL AIRE, KANSAS

Jim Benage, Mayor

ATTEST:

Melissa Krehbiel, City Clerk

APPROVED AS TO FORM ONLY:

Maria A. Schrock, City Attorney