

(Summary First Published in the Haysville Sun-Times on the 24th day of June, 2021)

THE CITY OF HAYSVILLE, KANSAS

ORDINANCE NO. 1079

**AN ORDINANCE AMENDING CERTAIN ZONING REGULATIONS OF
THE CITY OF HAYSVILLE, KANSAS**

WHEREAS, on May 27, 2021 the Planning Commission held a public hearing to consider certain revisions to the Zoning Regulations of the City.

WHEREAS, notice of the public hearing was published on May 5, 2021 in the City Paper. Copies of the proposed changes were available to the public online and at City Hall.

WHEREAS, after public hearing, the Planning Commission voted to approve certain changes to the Zoning Regulations, and recommend adoption by the City Council.

WHEREAS, the governing body of the City of Haysville, Kansas finds it advisable to amend and enact certain changes to the Zoning Regulations of the City of Haysville as set forth herein.

NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF HAYSVILLE, KANSAS:

SECTION 1. That Article 9 and Article 10 the Zoning Regulations of the City of Haysville, Kansas are amended and certain new provisions are added and enacted as provided for as follows:

Article 9. Planning Commission

901 JURISDICTION

Jurisdictional boundaries of planning commission are hereby established as shown on the map designated as the “Zoning Jurisdiction Map,” which such map shall include:

- A. Total jurisdiction within city limits;
- B. Primary recommendation within zone of influence, three mile ring, where overlap occurs within the city’s zone of influence.
- C. Secondary recommendation within zone influence, three mile ring, where overlap occurs within the city’s zone of influence.

Such map and all notations, references and the information shown thereon are hereby made a part of this chapter as if the same were set forth in full herein. It shall be the duty of the Planning

Commission Secretary to keep on file in his or her office an authentic copy of the map, all changes, amendments or additions thereto and duplicate copies thereof shall be kept on file in the office of the commission and building inspector.

Article 10. Board of Zoning Appeals

1001 APPEALS

Appeals to the board may be taken by any person aggrieved by any officer, department, board or bureau of the municipality during the enforcement of the Zoning Regulations, or affected by any decision of the administrative officer regarding the applicability of such restrictions and/or requirements imposed by the Zoning Regulations. Such grievance shall be taken within a reasonable amount of time to the board for consideration and/or action, by filing an appeal specifying the grounds thereof and paying the fee required. The officer from whom the appeal is taken shall forthwith transmit to the board, all papers constituting the record upon which the action appealed was taken. The board shall have the power to hear appeals (of, where, or when) it is alleged there is an error in any order, requirement, decision or determination made by an administrative officer in the enforcement of the Zoning Regulations.

A. Appeal: An appeal in writing shall be filed with the board accompanied by such data and information as may be prescribed by the board as to assure the fullest possible presentation of facts for the permanent record.

B. On the appeal, the property for which review and consideration is sought shall be designated by legal description and general street location.

C. Accompanying the appeal, a certified list of the names and addresses of all property owners within 200 feet of the designated property (excepting public streets and ways) shall be provided by the petitioner. If a proposed appeal to property for which review and consideration is sought is located adjacent to the city's limits, the area of notification of the action shall be extended to at least 1,000 feet in the unincorporated area.

D. A filing fee of \$100 and a publication fee of \$50 shall be paid to the city clerk upon the filing of each appeal, for the purpose of defraying the costs of the proceedings prescribed herein. A written receipt shall be issued to the persons making such payment and records thereof shall be kept in such a manner as prescribed by law.

1002 STAY PROCEEDINGS

An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the board after the notice of appeal shall have been filed with him or her that by reason of facts stated in the certificate a stay would, in his or her opinion, cause imminent peril to life or property. In such case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the board or by a court of record on application or notice to the officer from the appeal of which is taken and on due cause shown.

1003 HEARING

The board shall fix a reasonable time for the hearing of any appeal, variance or exception, give public notice thereof as well as due notice to the parties of interest, and decide same within a reasonable time. Upon the hearing any party may appear in person or by agent or attorney.

A. Hearing: The board shall establish the time and place of the public hearing.

B. At least 20 days notice of the time and place of the public hearing shall be published in the official paper of the City of Haysville.

C. In addition to such public notice, written notice of such appeal shall be mailed to all property owners and applicable addresses, within 200 feet of the property (excepting public streets and ways), each party to the appeal and the appropriate planning commission and an opportunity granted to interested parties to be heard at the public hearing. If the proposed property for which appeal, variance, or exception is located adjacent to the city's limits, the area of notification of the action shall be extended to at least 1,000 feet in the unincorporated area.

1004 VARIANCES

The board is empowered to authorize in specific cases a variance from the specific terms of the zoning ordinance which will not be contrary to the public interest and where owing to special conditions, a literal enforcement of the provisions of the zoning ordinance will in an individual case result in unnecessary hardship (total deprivation of use), and provided that the spirit of the zoning ordinance shall be observed, public safety and welfare secured, and substantial justice done. Such variance shall not permit any use not permitted by the zoning ordinance in such district. A request for variance may be granted in such case upon finding by the board that all of the following conditions have been met:

A. That the variance requested arises from such condition which is unique to the property in question and which is not ordinarily found in the same zone or district; and that it is not created by an action or actions of the property owner represented in the application;

B. That the granting of the permit for the variance will not adversely affect the rights of adjacent property owner represented in the application;

C. That the strict application of the provisions of the zoning ordinance of which variance is requested will constitute unnecessary hardship upon the property owner represented in the application;

D. That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare.

E. That granting of the variance desired will not be opposed to the general spirit and intent of the zoning ordinances.

1005 EXCEPTIONS

The board is authorized to grant exceptions to the provisions of the zoning ordinance in those instances where the board is specifically authorized to grant such exceptions and only under the terms of the zoning ordinance. In no event shall exceptions to the provisions of the zoning ordinance be granted where the use or exception contemplated is not specifically listed as an exception in the zoning ordinance. Further, under no conditions shall the board have the power to grant exceptions when conditions of this exception, as established in the zoning ordinance, are not found to be present.

1006 SPECIAL EXCEPTIONS

The board is authorized:

A. To grant a permit for a temporary building for commerce or industry in a dwelling district which is incidental to the dwelling development, which temporary building shall be located in the platted development area. No such permit shall be issued for more than 24 months or beyond completion of the project, whichever is shorter.

B. To grant a permit for the extension of a use or area regulation into an adjoining district, where the boundary line of the district divides a lot in a single ownership at the time of the adoption of the zoning ordinance, or at the time of annexation, whichever is later.

C. To determine in cases of uncertainty, the classification of any use not specifically enumerated in the zoning regulations.

1007 FURTHER POWERS OF THE BOARD

In exercising the powers set out in this article, such board may reverse or affirm wholly or partially, or may modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision or determination as ought to be made and that end shall have all powers of the officer from whom the appeal is taken.

1008 VOTE REQUIRED

The concurring vote of a majority of the members appointed to the board shall be required to reverse any order, requirement, decision, or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required, or to affect any variation of the zoning regulations.

SECTION 2. Except as provided herein, all other provisions of the Code of the City of Haysville shall remain in full force.

SECTION 3. This Ordinance shall be included in the Code of the City of Haysville and shall take effect as of the date of its publication in the official city newspaper.

Passed and Approved by the Governing Body of the City of Haysville, Kansas this 14th day of June, 2021.

Approved by the Mayor this 15th day of June, 2021.

Bruce Armstrong, Mayor

ATTEST:

Angela Millsbaugh, City Clerk

Approved as to form:

Joshua Pollak, City Attorney