



City of Clearwater Board of Zoning Appeal Meeting Agenda
Tuesday September 2, 2025, at 6:30pm
129 E Ross Clearwater, KS 67026

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1. Call meeting to order

2. Roll Call

Lyle Berntsen

Ron Witt

Jarod Ledington

Duane Schneider

Kenny Watson

3. [Approval of Minutes from August 5, 2025](#)

4. Hearing: None

5. Other Business

6. Adjournment

City of Clearwater, Kansas
Sedgwick County
Board of Zoning Appeals - **MINUTES**
August 5, 2025
Clearwater City Hall
129 Ross Avenue Clearwater, KS 67026

1. Call meeting to order

Lyle Berntsen called the meeting to order at 6:30 p.m.

2. Roll Call

Deputy City Clerk called the roll to confirm the presence of a quorum. The following members were present: Lyle Berntsen, Kenny Watson, Jarod Ledington, Ron Witt and Duane Schneider.

The following staff members were present:

Courtney Zollinger, City Administrator; Carol Reitberger, Deputy City Clerk, City Attorney Scott Ufford.

Also present: Stephen and Jennifer King

3. Approval of Minutes from July 1, 2025

Motion: *Ledington* moved, *Schneider* seconded to approve the minutes of the July 1, 2025, as presented. The motion passed unanimously. 5-0

4. Hearing 114 S. Byers

Hearing opened at 6:30 p.m.

Motion: *Witt* moved, *Ledington* seconded to open the hearing. The motion passed unanimously. 5-0

Zollinger stated that city residents Stephen and Jennifer King would like to rebuild a new home on their empty lot at 114 S. Byers. Their home was demolished by a fire. The request is to reduce the side yard setbacks on each side to 7 ½ feet. This would not encroach on any other property.

Mr. King asked if he could move the house back a bit further. Instead of being the 25' setback it would be more like 30-35'. Zollinger stated if the rear setback was still 25'.

Motion: *Watson* moved, *Schneider* seconded to close the hearing. The motion passed unanimously. 5-0

The Board went over the 5 questions for uniqueness, Adjacent Property, Hardship, Public Interest and General Spirit/Intent. Uniqueness Supported 4-1, Adjacent Property Supported 5-0, Hardship Supported 4-1, Public Interest Supported 5-0, General Spirit/Intent Supported 4-1

Based on the Zoning Variance Action will carry as approved 5-0

5. Other Business None at this time.

6. Adjournment

With there being no other business, **Ledington** moved, **Schneider** seconded to adjourn the meeting.
Voted and passed unanimously. 5-0

The meeting adjourned at 6:45 p.m.

CERTIFICATE

State of Kansas }
County of Sedgwick }
City of Clearwater }

I hereby certify that the foregoing is a true and correct copy of the approved minutes of August 5, 2025,
Board of Zoning Appeals Board.

Given under my hand and official seal of the City of Clearwater, Kansas, this 2nd day of September 2025.

Carol Reitberger, Deputy City Clerk, Secretary

Lyle Berntsen, Chairperson



City of Clearwater Planning Commission Meeting Agenda
Tuesday September 2, 2025, at 6:30pm
129 E Ross Clearwater, KS 67026

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1. Call meeting to order

2. Roll Call

Lyle Berntsen
Duane Schneider

Ron Witt
Kenny Watson

Ryan Karrick
John Hurley

Jarod Ledington

- 3.** [Approval of the Minutes of August 5, 2025](#)
4. **Hearing:** [Amendment to Article 23-2: Fences](#)
5. **Other Business**
6. **Adjournment**

City of Clearwater, Kansas
Sedgwick County
Planning Commission - **MINUTES**
August 5, 2025
Clearwater City Hall
129 Ross Avenue Clearwater, KS 67026

1. Call meeting to order.

Lyle Berntsen called the meeting to order at 6:46 p.m.

2. Roll Call

Deputy City Clerk called the roll to confirm the presence of a quorum. The following members were present: Lyle Berntsen, Kenny Watson, Jarod Ledington, Ron Witt, Duane Schneider. Ryan Karrick and John Hurley were absent.

The following staff members were present:

Courtney Zollinger, City Administrator; Carol Reitberger, Deputy City Clerk, City Attorney Scott Ufford.

3. Approve July 1, 2025, Minutes

Motion: *Schneider* moved, *Watson* seconded to approve the minutes of the July 1, 2025, as presented. The motion passed unanimously. 5-0

4. Discussion: Fence Placement

Zollinger was made aware of a fence going up at Kansas and Gorin. When she went to look at the fence she found that the fence was being placed in the right-of-way. Zollinger checked the city's zoning code to see exactly what it said about the fences going in the right of way and it is not addressed. Even the zoning consultant looked at the code and it was not clear. While it is generally understood that fences are not put up in the right of way, since it is not explicitly stated, the mayor did not feel like it was good enough grounds to go and force it on fences that are already put up. The Mayor recommended the Planning Commission review the section of code on fences and make necessary recommendations for modification.

Zollinger stated she reviewed other codes and made the following recommendations to be added to the current code:

- Fence permits are required prior to construction. All permit applications must be accompanied by a plot plan and application for zoning compliance.
- Fence are not allowed in the street right-of-way.
- Conditional use for fences: The Board of Zoning Appeals may as a conditional use approve the construction of higher fences and/or permitted placement in the right-of-way in any district if the Board finds that the public welfare is preserved.
- Amend the definitions of "Fence". A free-standing structure of metal, masonry, glass, or wood or any combination thereof resting on or partially buried in the ground and rising above ground level and used for confinement, screening, or partition purposes but which does not pose a threat to public safety or health and is designed and constructed in such a manner as to produce an aesthetically pleasing appearance. Fences constructed of metal roofing materials, forklift pallets, portions of vehicles or appliances, concrete bags and the like are not permitted.

determining the location of a fence, consideration must be given to its affect upon proper drainage.

She also included the City of Cheney city code on fences as a reference.

The board discussed and agreed with the recommendations but agreed the new definition was still too vague for interpretation. The board agreed they like the listing of permitted and prohibited materials Cheney outlined in their code and would like to see it incorporated into Clearwater's. They are as follows:

- Except as otherwise set forth in this Ordinance, permitted materials in residential districts for fences on all properties shall include:
 - new lumber and new wood boards;
 - split rail;
 - chain link;
 - wrought iron and decorative aluminum;
 - vinyl;
 - brick and masonry;
 - stone, rock and concrete block;
 - stucco;
- Prohibited materials in residential districts shall include but not be limited to:
 - sheet metal;
 - metal building siding and roofing materials;
 - corrugated metal or fiberglass;
 - barbed wire except as may be permitted for security requirements;
 - chicken wire;
 - plywood;
 - scrap wood;
 - scrap metal;
 - canvas, nylon or other non-rigid material or fabric;
 - cast-off, secondhand or other materials not originally intended to be used for constructing or maintaining a fence; and
 - stock fences.

The Board also discussed provisions for fence repair and would like to include that into the amendment. The administrator and attorney will prepare an ordinance for consideration for the September hearing.

5. Other Business None at this time.

6. Adjournment

With there being no other business, **Ledington** moved, **Witt** seconded to adjourn the meeting. Voted and passed unanimously. 5-0

The meeting adjourned at 7:02 p.m.

CERTIFICATE

State of Kansas }
County of Sedgwick }
City of Clearwater }

I hereby certify that the foregoing is a true and correct copy of the approved minutes of August 5, 2025, Planning Commission Board.

Given under my hand and official seal of the City of Clearwater, Kansas, this 2nd of September 2025.

Carol Reitberger, Deputy City Clerk, Secretary

Lyle Berntsen, Chairperson

**City of Clearwater
Planning Commission
September 2, 2025**

PUBLIC HEARING: Amendment to Article 23-2 Fences

Context: The Planning Commission discussed Article 23-2 at the prior meeting and asked staff to prepare an amendment to the code to be reviewed during a public hearing.

The proper notice was sent for the hearing. The public hearing was posted in the Time Sentinel Newspaper on July 24, 2025 setting the hearing date for September 2, 2025 at 6:30pm. Since the amendment doesn't affect a specific property address, notices within 200' were not required.

Nobody has made any reports about the hearing for the Planning Commission to consider.

The amendments to the code include the following added language:

- Fence permits are required prior to construction. All permit applications must be accompanied by a plot plan and an application for zoning compliance. The Zoning Administrator may require a photograph or sketch of the proposed fence.
- Fences are not permitted in the city right-of-way.
- Except as otherwise set forth in this Ordinance, permitted materials in residential districts for fences on all properties shall include:
 - new lumber and new wood boards;
 - split rail;
 - chain link;
 - wrought iron and decorative aluminum;
 - vinyl;
 - brick and masonry;
 - stone, rock and concrete block;
 - stucco;
- Prohibited materials in residential districts shall include but not be limited to:
 - sheet metal;
 - metal building siding and roofing materials;
 - corrugated metal or fiberglass;
 - barbed wire except as may be permitted for security requirements;
 - chicken wire;
 - plywood;
 - scrap wood;
 - scrap metal;
 - canvas, nylon or other non-rigid material or fabric;
 - cast-off, secondhand or other materials not originally intended to be used for constructing or maintaining a fence; and
 - stock fences.
- Conditional use for fences: The Board of Zoning Appeals may as a conditional use approve the construction of higher fences and/or permitted placement in the right-of-way in any district if the Board finds that the public welfare is preserved.

- Any fence existing on the effective date of Ordinance No. ____ (September __, 2025) which has been previously approved by the City shall be allowed. However, if any such fence is removed, then any new fence will need to comply with the then, existing city code.
 - Repairment of a fence with the same material, size and location is not considered removed.

Action:

Open the hearing, make recommendations for City Council to consider, close the hearing.

ORDINANCE NO. _____

**AN ORDINANCE AMENDING ARTICLE 23-2 OF APPENDIX C – ZONING REGULATIONS OF THE
CODE OF THE CITY OF CLEARWATER, KANSAS**

WHEREAS, the Planning Commission of the City of Clearwater, Kansas, has identified a need to modify the Zoning Regulations as they pertain to accessory structures; and

WHEREAS, pursuant to Article 23-2 of Appendix C of the Code of the City of Clearwater, Kansas, a hearing was held before the Planning Commission on September 2, 2025, to address the proposed modifications to the Zoning Regulations regarding fences; and

WHEREAS, the City of Clearwater, Kansas, wishes to amend its Article 23-2 of Appendix C to the Code of the City of Clearwater to modify its regulations regarding accessory structures

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CLEARWATER KANSAS:

SECTION 1.

Article 23-1 of Appendix C – Zoning Regulations of the Code of the City of Clearwater is hereby amended to read as follows:

23-2. Fences.

Except as otherwise specifically provided in other codes, ordinances, or resolutions, the following regulations shall apply to the construction of fences:

- (1) Fence permits are required prior to construction. All permit applications must be accompanied by a plot plan and an application for zoning compliance. The Zoning Administrator may require a photograph or sketch of the proposed fence.
- (2) Fences are not permitted in the city right-of-way.
- (3) No fence shall be constructed closer to the street than the front setback line established for the district in which such fence is to be erected, except that fences installed upon public or parochial school grounds or in public parks and public playgrounds may be permitted by special use permit approved by the board of zoning appeals without any front yard setback limitation, providing the fence does not encroach on any required utility easements or cause any vision impairment for vehicles.
- (4) No fence shall be constructed which will constitute a traffic hazard and no permit shall be granted for the construction of a fence unless the city building inspector has certified that the proposed fence will not constitute a traffic hazard.

- (5) No fence shall be constructed in such a manner or be of such design as to be hazardous or dangerous to persons or animals.
- (6) No person shall erect or maintain any fence which will materially damage the adjacent property by obstructing the view, shutting out the sunlight, or hindering ventilation, or any fence which shall adversely affect the public health, safety, and welfare.
- (7) No fence, except fences erected upon public or parochial school grounds or in public parks and in public playgrounds, shall be constructed of a height greater than six feet; provided, however, that the board of zoning appeals may, by exception, authorize the construction of a fence higher than six feet if the board finds the public welfare is preserved.
- (8) All fences shall conform to the construction standards of the building code and other applicable ordinances and resolutions.
- (9) Except as otherwise set forth in this Ordinance, permitted materials in residential districts for fences on all properties shall include:
- a. new lumber and new wood boards;
 - b. split rail;
 - c. chain link;
 - d. wrought iron and decorative aluminum;
 - e. vinyl;
 - f. brick and masonry;
 - g. stone, rock and concrete block;
 - h. stucco;
- (10) Prohibited materials in residential districts shall include but not be limited to:
- a. sheet metal;
 - b. metal building siding and roofing materials;
 - c. corrugated metal or fiberglass;
 - d. barbed wire except as may be permitted for security requirements;
 - e. chicken wire;
 - f. plywood;
 - g. scrap wood;
 - h. scrap metal;
 - i. canvas, nylon or other non-rigid material or fabric;
 - j. cast-off, secondhand or other materials not originally intended to be used for constructing or maintaining a fence; and
 - k. stock fences.
- (11) Fences shall be exempt from the provisions of section 23-3; however, the city retains the right to remove any fence for right-of-way purposes.

(12) Conditional use for fences: The Board of Zoning Appeals may as a conditional use approve the construction of higher fences and/or permitted placement in the right-of-ay in any district if the Board finds that the public welfare is preserved.

(13) Any fence existing on the effective date of Ordinance No. ____ (September __, 2025) which has been previously approved by the City shall be allowed to remain as constructed so long as the fence complies with the city code or approved zoning variance applicable at the time of its construction. However, if any such fence is removed, then any new fence constructed will need to shall comply with ~~the then, existing city code~~ all current provisions of the city code.

- a. ~~Repairment of a fence~~ Any fence that is repaired with the same material ~~that is, of the same~~ size and at the same location is not considered removed for the purposes of this section.

SECTION 2.

This Ordinance shall take effect and be in force thirty (30) days from and after its publication in the official city newspaper.

PASSED AND APPROVED this 22nd day of July, 2025

Burt Ussery, Mayor

ATTEST:

Jaye Poe, City Clerk



Clearwater Planning Commission/ City Council

Zoning Ordinance Amendment – Action

Article:	Article 23 Section 2 - Fences
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Commission Recommendation

Reason for Recommendation

Petition Filed?	
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Governing Body Action	
Vote	
Date	
Resolution/ Ordinance (If applicable)	
Effective Date	

City Clerk

(SEAL)