

**City of Bonner Springs**  
**Planning Commission Agenda**  
**Tuesday, January 25, 2011**

**Study Session 6:00 p.m.**

- Planning Commissioner training on Kansas Foreclosure Procedures (Merle Parks);
- Demonstration on the City's new GIS System; and
- Discuss possible changes to the Sign Regulations regarding Banners, Temporary Promotional Business Signs.

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**Planning Commission Meeting – 7:00 p.m.**

**Call to Order:** Time: \_\_\_\_\_

**Roll Call:**

**ITEM NO. 1: Approval of Minutes:** The regular Planning Commission meeting held November 23, 2010.

Motion: \_\_\_\_\_ Second: \_\_\_\_\_

1. Board Discussion

# For: \_\_\_\_\_ #Against: \_\_\_\_\_

**New Business:**

**ITEM NO. 2: Special Use Permit: SUP-125: "Primp My Pup Pet Spa & Hotel"** A request for a Special Use Permit for a kennel operation to allow a place for owners of cats and dogs to take their animals for the day or night for grooming, overnight boarding and short term care for people who travel and obedience training courses with or without owners participation. The request is from Brian and Theresa Costello, Primp My Pup, LLC, under contract from James and Linda Armbrust, property owners of record. The property is approximately 6.0 acres zoned A-1, Agricultural District that is the location of the Old Walker School located at 115 N. 134<sup>th</sup> Street. *(This item will be forwarded to the Governing Body on February 14, 2011)*

**Open Public Hearing** Time: \_\_\_\_\_

1. Staff Presentation / Applicant Presentation
2. Public Comment

**Close Public Hearing** Time: \_\_\_\_\_

Motion: \_\_\_\_\_ Second: \_\_\_\_\_

3. Board Discussion

# For: \_\_\_\_\_ #Against: \_\_\_\_\_

**ITEM NO. 3: Zoning & Subdivision Amendments: BSZP-116: "Penalties for Zoning and Subdivision Violations":** The City Planner requests on behalf of the Planning Commission to consider an amendment to the Zoning Ordinance, Article XXIX, Section 5: Violation and Penalty; Article XXX: Sign Regulations, Section 5: Penalties; and the Subdivision Regulations, Article XI, Section 5, Penalty to amend the language for penalties to be consistent with the provisions of State Law under K.S.A. 12-761: Violations, Penalties and Actions that apply to penalties for violations of the Zoning Ordinance, Sign Regulations and Subdivision Regulations. *(This item will be forwarded to the Governing Body on February 14, 2011)*

**Open Public Hearing** Time: \_\_\_\_\_

1. Staff Presentation
2. Public Comment

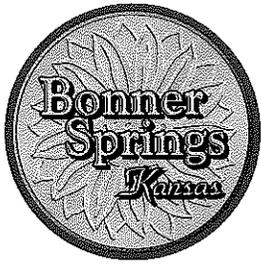
**Close Public Hearing** Time: \_\_\_\_\_

Motion: \_\_\_\_\_ Second: \_\_\_\_\_

3. Board Discussion

# For: \_\_\_\_\_ #Against: \_\_\_\_\_

**Adjournment** Time: \_\_\_\_\_



# *City of Bonner Springs*

## **PLANNING COMMISSION AGENDA**

CITY HALL COUNCIL CHAMBERS

**TUESDAY, JANUARY 25, 2011**

STUDY SESSION @ 6:00 P.M.

REGULAR MEETING @ 7:00 P.M.

### **PLANNING COMMISSION MEMBERS:**

PLEASE CONTACT TERRY BARLOW @ 667-1710

NO LATER THAN 12:00 NOON, TUESDAY, JANUARY 25, 2011,

IF YOU WILL BE UNABLE TO ATTEND

### **PREPARED BY:**

DON E. SLONE, AICP, CFM  
CITY PLANNER / FLOODPLAIN ADMINISTRATOR

**PEOPLE**

**PLANNING**

**PROGRESS**

# ITEM NO. 1

ITEM NO. 1: Approval of Minutes of Planning Commission Meeting November 23, 2010

**PLANNING COMMISSION AGENDA**  
**TUESDAY, JANUARY 25, 2011, 7:00 P.M.**

<b>PRESENT</b>	Gray	_____
	Carter	_____
	Pierce	_____
<b>&amp; VOTE:</b>	Neal	_____
	Parks	_____
	Wallace	_____
	Stephan	_____
	Krone	_____

**MOTION:** \_\_\_\_\_

**SECOND:** \_\_\_\_\_

**ACTION:** MAKE A MOTION TO APPROVE THE MINUTES OF THE PLANNING COMMISSION MEETING ON NOVEMBER 23, 2010.

**STAFF RECOMMENDATION:** STAFF RECOMMENDS APPROVAL OF THE MINUTES

**NARRATIVE:** The minutes of the November 23, 2010 meeting are attached.

## PLANNING COMMISSION MEETING MINUTES

Tuesday, November 23, 2010 at 7:00 p.m.

**MEMBERS PRESENT:** Tom Gray, Robin Neal, Jason Krone, Craig Stephan and Dan Carter  
**MEMBERS ABSENT:** Merle Parks, Dave Pierce and Malisa Wallace  
**STAFF PRESENT:** Don Slone, AICP, CFM, City Planner/Floodplain Administrator  
Terry Barlow, Administrative Secretary

The Chairman and Vice-Chairman were both absent, therefore, the Planning Commission Secretary (City Planner) as the only remaining elected member, ran the meeting. The Planning Commission Secretary called the meeting to order at 7:00 p.m. and asked for a roll call to be taken. Commissioners Gray, Neal, Krone, Stephan and Carter were present. Commissioners Pierce, Parks and Wallace were absent.

The Planning Commission Secretary introduced **Item No. 1: Approval of Minutes** and called for a motion to approve the minutes from the September 28, 2010 Planning Commission meeting. Commissioner Krone made a motion to approve the minutes as written, seconded by Commissioner Stephan. The Planning Secretary asked if there were any questions or comments concerning the minutes. Seeing none he called for the vote. The motion passed unanimously.

The Planning Commission Secretary introduced **Item No. 2: Lot Split: LS-111: "Ensign Commercial"** 7.17 acres platted as Lot 1, Ensign Commercial. The property is zoned C-S Highway Service District. Requested by Wil Anderson, BHC Rhodes for Steve Flanagan, Ensign Commercial Development Co., LLC, property owners of record. The request is in order to lot split the property and convey the existing mini-storage and car wash. The property is located at 399 N. 130<sup>th</sup> Street.

The Planning Commission Secretary presented the Staff Report and recommendations to the Planning Commission and stated he would be glad to answer any questions and that the applicant, Wil Anderson and the property owner, Steve Flanagan were both present to answer any questions the Planning Commission may have.

The Planning Commission Secretary asked if the Planning Commission had any questions or concerns. Seeing none he called for a motion. Commissioner Stephan made a motion to approve with the conditions listed in Staff Report. Commissioner Krone seconded.

The Planning Commission Secretary asked if there was any further discussion and seeing none called for a vote. The motion passed unanimously.

The Planning Commission Secretary introduced **Item No. 3: Zoning Ordinance Amendment: BSZP-115: "Special Uses"**: A request by the Planning Department on behalf of the Bonner Springs Planning Commission to consider an amendment to the Zoning Ordinance, Article XXVII: Special Uses, Section 7: Recording to remove the requirement to record all ordinances granting special use permits with the Register of Deeds.

The Planning Commission Secretary opened the public hearing at 7:02 p.m. and presented the Staff Report and recommendations to the Planning Commission and stated that he would be glad to answer any questions.

The Planning Commission Secretary asked if there was anyone in the audience with questions or concerns. Seeing none he closed the public hearing at 7:03 p.m. and called for a motion. Commissioner Stephan made a motion to approve with a second from Commissioner Neal.

The Planning Commission Secretary asked if the Planning Commission had any questions or comments. Seeing none he called for a vote. The motion passed unanimously.

The Planning Commission Secretary stated that this item will be on the Governing Body Agenda on December 13, 2010 with a Planning Commission recommendation of approval.

The Planning Commission Secretary adjourned the meeting at 7:04 p.m.

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Planning Commission Secretary

# ITEM NO. 2

**ITEM NO. 2: Special Use Permit: SUP-125: "Primp My Pup Pet Spa & Hotel"** A request for a Special Use Permit for a kennel operation to allow a place for owners of cats and dogs to take their animals for the day or night for grooming, overnight boarding and short term care for people who travel and obedience training courses with or without owners participation. The request is from Brian and Theresa Costello, Primp My Pup, LLC, under contract from James and Linda Armbrust, property owners of record. The property is approximately 6.0 acres zoned A-1, Agricultural District that is the location of the Old Walker School located at 115 N. 134<sup>th</sup> Street.

## PLANNING COMMISSION MEETING

**TUESDAY, JANUARY 25, 2011 at 7:00 P.M.**

<b>PRESENT</b>	Gray	_____
	Carter	_____
	Pierce	_____
<b>&amp; VOTE:</b>	Neal	_____
	Parks	_____
	Wallace	_____
	Stephan	_____
	Krone	_____

**MOTION:** \_\_\_\_\_

**SECOND:** \_\_\_\_\_

**ACTION:** MAKE A MOTION TO APPROVE

**STAFF RECOMMENDATION:** STAFF IS RECOMMENDING APPROVAL OF THIS ITEM SUBJECT TO THE CONDITIONS LISTED IN THE STAFF REPORT

**NARRATIVE:** A staff report is included in the agenda. Staff will be present to answer any questions. This item will be forwarded to the Governing Body on February 14, 2011.

**SPECIAL USE PERMIT: PRIMP MY PUP PET SPA & HOTEL****Case No.:** SUP-125**Applicant:** Brian and Theresa Costello, Primp My Pup, LLC**Owner:** James and Linda Armbrust**Location:** 115 N. 134<sup>th</sup> Street**Zoning:** A-1, Agricultural District**Tract Size:** 5.99 acres**Building(s):** Old Walker Elementary School**Permit Type:** Kennel**PROJECT DESCRIPTION:**

The applicant has submitted a request for a Special Use Permit in order to operate a kennel that will allow a place for owners of cats and dogs to take their animals for the day or night for grooming, overnight boarding and short term care for people who travel and obedience training courses with or without owner's participation. The applicants have the property under contract to purchase subject to the approval of the special use permit. *(See the attached Statement and Exhibits)*

**STAFF RECOMMENDATION:** Staff recommends approval of SUP-125: Primp My Pup Pet Spa & Hotel with the conditions specified based upon the factors for consideration presented in the staff report and forward it to the Governing Body with a recommendation of approval.

Subject to the following six (6) conditions:

1. The six (6) foot screening fence shall be constructed as shown on the Exhibit for the Special Use Permit prior to any outside kennel use;
2. The Future Asphalt Parking Area shown on the Exhibit for Special Use Permit shall be paved and stripped no later than May 1, 2011;
3. Provide and dedicate a twenty (20) feet of right-of-way by separate instrument for future street widening, waterline and sanitary sewer line improvements along 134<sup>th</sup> Street to the Planning Department in order for the city to file with the Register of Deeds;
4. The revocation of the Special Use Permit may occur for a violation of the Zoning Ordinance as provided in Section 8, Article XXVII of the Zoning Ordinance or violation of any or all of the conditions set out in the Special Use Permit;
5. The Special Use Permit shall be valid for a period of five (5) years until February 14, 2016 unless:
  - a. The subject property is sold; or
  - b. The operation of such use is discontinued for more than 12 months; and
6. The Special Use Permit may not be assigned, conveyed or transferred.

**FACTORS FOR CONSIDERATION:**

1. **The proposed special use complies with all applicable provisions of these regulations, including intensity of use regulations, yard regulations, and use limitations, unless specifically exempted by the provisions of these regulations** – The proposed use is allowed by Special Use Permit in the A-1, Agricultural District zoning; and therefore, is an acceptable use under the use limitations. The applicants proposed kennel uses are consistent with the definition of a kennel according to Section 3, Article XXVIII of the Zoning Ordinance:

**Kennel:** Any place, area, building, or structure where dogs or cats or other household domestic pets are boarded, bred, housed, cared for, fed, or trained by other than the owner. The occasional raising and sale of a litter of kittens or puppies or other household domestic pets shall not constitute a kennel.

The specific provisions to be reviewed for a Kennel under the Special Use Permit are as follows:

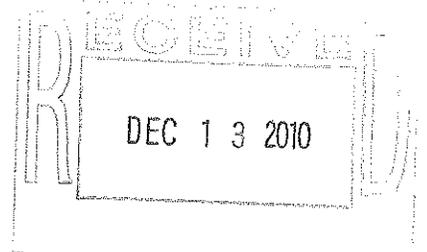
**Kennels, Breeding and Boarding:**

- (a) The minimum lot size shall not be less than one acre;
- (b) No kennel buildings or runs shall be located nearer than seventy-five (75) feet to any property line; and
- (c) All kennel runs or open areas shall be screened around such areas or at the property lines to prevent the distraction or excitement of the dogs. Such screening shall be either a solid or semi-solid fence or wall six (6) feet high and having a density of not less than eighty percent (80%) per square foot.

The Exhibit for the Special Use Permit does meet the requirements of the Use Regulations, Height Regulations and the Yard Requirements of the A-1, Agricultural District for a Kennel as listed above. The lot size, the building and proposed screening fence locations meet or exceed the minimums as set forth above. The proposed six (6) foot screening fence shall be installed prior to any outside kennel use and the future asphalt parking shall be paved and striped no later than May 1, 2011.

2. **The proposed special use at the specified location will contribute to and promote the welfare or convenience of the public** – The proposed special use should contribute to the convenience of the public by providing a full range of animal care for the local community.
3. **The proposed special use will not cause substantial injury to the value of other property in the neighborhood in which it is to be located** – The additions to the site that include the new screening fence, landscaping and parking should not cause injury to the value of other surrounding properties but rather improve the value of the neighborhood as the Old Walker Elementary School has been vacant for several years.
4. **The location and size of the special use, the nature and intensity of the operation involved in or conducted in connection with it, and the location of the site:**
  - a. **The location, nature and height of buildings, structures, walls and fences on the site** – The Exhibit for Special Use Permit proposes a new six (6) foot screening fence to house the outside kennel facilities. There are no changes to the existing building.
  - b. **The nature and extent of landscaping and screening on the site** – The proposed landscape area as shown on the Exhibit for Special Use Permit will help soften the north elevation of the building. The six (6) foot screening fence should help prevent the distraction or excitement of the dogs and shall be installed prior to any outside kennel use.
5. **Off-street parking and loading areas will be provided in accordance with the standards set forth in these regulations, and such areas shall be screened from adjoining residential uses and located so as to protect such residential uses from any injurious effect** – Off-street parking shall be provided as shown on the Exhibit for the Special Use Permit and shall be paved and stripped prior to May 1, 2011. The proposed landscape area will also help screen the parking for the residential properties to the north. The properties to the south are under contract to be purchased by KDOT for the new Northwest Loop for the K-7/I-70 Interchange. (*See attached Exhibit*)
6. **Adequate utility, drainage, and other such necessary facilities have been or will be provided** – All utilities have been provided to the existing structure. The onsite septic system was inspected on May 11, 2010 and has been cleared for operation by the Wyandotte County Health Department.
7. **Adequate access roads or entrance drives will be provided and shall be so designed to prevent traffic hazards and to minimize traffic congestion in public streets or alleys** – Two accesses are provided along 134<sup>th</sup> Street that was constructed by the school district a number of year ago which have been recently paved by the current property owners.

**PRIMP MY PUP PET SPA AND HOTEL**



Primp My Pup, LLC. Has been operating in Shawnee, Kansas at Highway K-7 and Johnson Drive for three years. We currently offer pet grooming and light merchandising. Due to building constraints, we are unable to offer our clients full services for all of their pet's needs.

We are hoping to relocate to Bonner Springs Kansas to 115 North 134<sup>th</sup> Street (Old Walker School House). We expect to offer a place for owners of cats and dogs to drop off their animals for the day or night for grooming, overnight boarding and short term care for people who travel and obedience training courses with or without owner's participation.

We also will be offering play time services that allow owners to drop off their animals for structured play with staff and other animals. Our goal is to be a full service, all in one stop for animal owners to care for their animals and provide a safe environment for them to do so.

For Information, please contact Brian Costello at 816 289 3462









RIVERVIEW

134th

4-in PVC

4-in PVC

12-in DIP

8-in PVC

8-in PVC

8-in

RIE

I-70

I-70



# Public Health Department

Joseph M. Connor, Director



619 Ann Avenue  
Kansas City, KS 66101

Phone: (913) 573-8855  
Fax: (913) 321-7932

May 14, 2010

Ms. Linda Armbrust  
Re: 115 North 134<sup>th</sup> Street  
Bonner Springs, Kansas

A septic inspection was done by Bonner Springs Septic Service at the address of 115 N. 134<sup>th</sup> Street, formerly know as Walker School. These findings revealed a 2000 gallon tank in good condition, the interior inlet and the outlet's functioning properly, as well a the lateral field at the time of inspection.

The Health Department does recommend the tank be upgraded by installing a 24(foot) inspection riser, adding the riser it can aid in future preventative maintenance, such as pumping/visual inspection etc. of the private wastewater system.

Sincerely,

James Baker  
Environmental Health Specialist

Cc; Rick Sailer, Bonner Springs Codes

WALKER SCHOOL 115 N. 134 STREET

Bonner Springs Septic Service  
P.O. Box 112  
Bonner Springs KS. 66012

SHEET NO.
DATE 5-11-2010

ADDRESS SUBMITTED TO: INVOICE

NAME: Linda Armburst

ADDRESS: 115 N 134th St

Bonner Springs KS. 66012

PHONE NO: 913-707-6138

WORK TO BE PERFORMED AT:

ADDRESS: Old Walker School

DATE OF PLANS: \_\_\_\_\_

ARCHITECT: \_\_\_\_\_

We hereby propose to furnish the materials and perform the labor necessary for the completion of

- 1. Installed 24" dia Riser, privy, codes
- ① Septic tank 2,000 gallon
- IN good condition
- 2. Inlet OK
- 3. Outlet OK
- 4. Lateral Field OK

*[Handwritten Signature]*  
Eddie

All material is guaranteed to be as specified, and the above work to be performed in accordance with the drawings and specifications submitted for above work, and completed in a substantial workmanlike manner for the sum of \$300.00 Dollars

with payments to be made as follows:  
Paid in full #1064

*[Handwritten Signature]*  
Edward S. Bjorgaard

Respectfully submitted

Per

Note - This proposal may be withdrawn by us if not accepted within \_\_\_\_\_ days.

ACCEPTANCE OF PROPOSAL

The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payments will be made as outlined above.

Signature \_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_

Sent to James Baker 12-10

PROPOSAL

912 cm Ln Rd

Affidavit in Proof of Publication

STATE OF KANSAS  
Wyandotte County

(Published in the Bonner Springs Chieftain, Thursday, December 30, 2010)

Erika Gray of the Legal Dept. of the Bonner Springs Chieftain being first duly sworn, deposes and says:

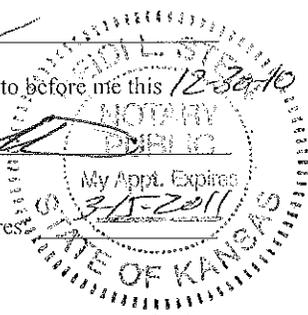
That this weekly newspaper printed in the State of Kansas, and published in and of general circulation in Wyandotte County, Kansas, with a general paid circulation on a weekly basis in Wyandotte County, Kansas, and that said newspaper is not a trade, religious or fraternal publication, and which newspaper has been admitted to the mails as periodicals class matter in said County, and that a notice of which is hereto attached, was published in the regular and entire issue of the Bonner Springs Chieftain

Said newspaper is published weekly 52 weeks a year; has been so published continuously and uninterruptedly in said county and state for a period of more than five years prior to the first publication of said notice and been admitted at the post office of Bonner Springs in said County as second class matter.

That the attached notice is a true copy thereof and was published in the regular and entire issue of said newspaper for 1 consecutive weeks the first publication thereof being made as aforesaid on 12/30/2010 with publications being made on the following dates:

12/30/2010

*Erika Gray*  
Subscribed and sworn to before me this 12-30-10  
*[Signature]*  
Notary Public  
My Appointment expires 3-15-2011



Publication Charges	\$36.00
Notary And Affidavit	\$0.00
Additional Copies	\$0.00
	<u>\$36.00</u>

NOTICE OF PUBLIC HEARINGS  
PLANNING COMMISSION  
CITY OF BONNER SPRINGS, KANSAS

The Planning Commission will hold a public hearing on Tuesday, January 25, 2011, at 7:00 p.m. at City Hall in the Council Chambers, 205 E. 2nd Street, Bonner Springs, Kansas. The purpose of the public hearing is to receive public comment for:

**Special Use Permit: SUP-125: "Primp My Pup Pet Spa & Hotel"** A request for a Special Use Permit for a kennel operation to allow a place for owners of cats and dogs to take their animals for the day or night for grooming, overnight boarding and short term care for people who travel and obedience training courses with or without owners participation. The request is from Brian and Theresa Costello, Primp My Pup, LLC, under contract from James and Linda Armbrust, property owners of record. The property is approximately 6.0 acres zoned A-1, Agricultural District that is the location of the Old Walker School located at 115 N. 134th Street.

The complete legal description and application for the above item is available for public inspection at the Planning Department located at 205 E. 2nd Street from Don E. Slone, AICP, CFM, City Planner/Floodplain Administrator at (913) 667-1708.

Persons who wish to be heard will be given an opportunity to make comments at the public hearing.

/s/ Don E. Slone, AICP, CFM  
Planning Commission Secretary

CITY OF BONNER SPRINGS  
11 JAN - 8 AM 10:19  
RECEIVED

# ITEM NO. 3

**ITEM NO. 3: Zoning & Subdivision Amendments: BSZP-116: “Penalties for Zoning and Subdivision Violations”:** The City Planner requests on behalf of the Planning Commission to consider an amendment to the Zoning Ordinance, Article XXIX, Section 5: Violation and Penalty; Article XXX: Sign Regulations, Section 5: Penalties; and the Subdivision Regulations, Article XI, Section 5, Penalty to amend the language for penalties to be consistent with the provisions of State Law under K.S.A. 12-761: Violations, Penalties and Actions that apply to penalties for violations of the Zoning Ordinance, Sign Regulations and Subdivision Regulations.

## PLANNING COMMISSION MEETING

TUESDAY, JANUARY 25, 2011 at 7:00 P.M.

<b>PRESENT</b>	Gray	_____
	Carter	_____
	Pierce	_____
<b>&amp; VOTE:</b>	Neal	_____
	Parks	_____
	Wallace	_____
	Stephan	_____
	Krone	_____

**MOTION:** \_\_\_\_\_

**SECOND:** \_\_\_\_\_

**ACTION:** MAKE A MOTION TO APPROVE

**STAFF RECOMMENDATION:** STAFF IS RECOMMENDING APPROVAL OF THIS ITEM

**NARRATIVE:** A staff report is included in the agenda. Staff will be present to answer any questions. This item will be forwarded to the Governing Body on February 14, 2011.

To: Planning Commission

From: Don E. Slone, AICP, CFM, City Planner/Floodplain Administrator

**RE: Zoning & Subdivision Amendments: BSZP-116: "Penalties for Zoning and Subdivision Violations":** The City Planner requests on behalf of the Planning Commission to consider an amendment to the Zoning Ordinance, Article XXIX, Section 5: Violation and Penalty; Article XXXI: Sign Regulations, Section 5: Penalties; and the Subdivision Regulations, Article XI, Section 5, Penalty to amend the language for penalties to be consistent with the provisions of State Law under K.S.A. 12-761: Violations, Penalties and Actions that apply to penalties for violations of the Zoning Ordinance, Sign Regulations and Subdivision Regulations.

**Recommendation:**

The City Planner and the Assistant City Attorney recommends an amendment to the Zoning Ordinance, Article XXIX: Administration, Section 5: Violation and Penalty; Article XXXI: Sign Regulations, Section 5: Penalties and the Subdivision Regulations, Article XI: Administration, Section 5: Penalty. The amendment is to change the language to be consistent with the provisions of State Law under K.S.A. 12-761, Violations, Penalties and Actions that apply to all zoning and subdivision violations.

The recommended language for all three Articles is:

**SECTION 5. VIOLATION AND PENALTY:** Any person, firm or corporation who shall violate any of the provisions of these Regulations or fail to comply herewith, or with any of the requirements thereof; or who shall build or alter any building in violation of any plan submitted and approved hereunder shall be guilty of a misdemeanor; and, upon conviction thereof, shall be liable to a fine of not more than five hundred dollars (\$500.00) and/or imprisonment for not more than six (6) months for each offense and each day such violation shall be permitted to exist shall constitute a separate offense.

**Discussion:**

The issue of penalties for violations of the Zoning Ordinance and Sign Regulations surfaced with two separate Municipal Court cases that I had in October and November. In view of these two cases, I reviewed not only the penalty sections of the Zoning Ordinance and the Sign Regulations; but also the Kansas State Statutes for Planning and Zoning under Chapter 12, Article 7, specifically K.S.A. 12-761 that deals with violations, penalties and actions. K.S.A. 12-761 which applies to all zoning, subdivision and floodplain violations states that a violation is punishable by a fine not to exceed \$500.00 and or by imprisonment for not more than six months.

In my review of the penalty for a zoning violation, I found that it did not include any confinement in jail but did include a fine of up to \$500.00. Penalties for violations of the Sign Regulations is listed as a Class C violation as prescribed by the Public Offense Code includes a fine not to exceed \$500.00 and confinement that shall not exceed one month in jail. I reviewed the penalties for a violation of the Subdivision Regulations and found that these regulations were also not in conformance with State Law and was not consistent with penalties for a zoning violation. The amendments recommended are in order to ensure consistency with the penalties for violations of the Zoning Ordinance, Sign Regulations and Subdivision Regulations. I worked with our Assistant City Attorney, Shane Lillich, with the recommended language and we both agree to the proposed changes.

**Note:** K.S.A. 12-761 also applies to penalties for a violation of the Floodplain Management Regulations. The penalties for violations cited under Article 3, Section C: Penalties for Non-Compliance and will be amended later this year. This amendment will occur as part of the revisions to the Floodplain Management Regulations that will incorporate the new Flood Insurance Rate Maps that are proposed to become effective on September 2, 2011.

**Background:**

Below lists K.S.A. 12-761; the Zoning Ordinance; the Sign Regulations; and the Subdivision Regulations for a comparison on the differences in the language of the penalty provision between each regulation.

**K.S.A. 12-761 reads as follows:**

**Statute 12-761: Same; violations; penalties; actions.** (a) Any violation of any regulation adopted under the authority of this act shall be a misdemeanor and shall be punishable by a fine of not to exceed \$500 or by imprisonment for not more than six months for each offense or by both such fine and imprisonment. Each day's violation shall constitute a separate offense.

(b) Any city or county, and any person the value or use of whose property is or may be affected by such violation, shall have the authority to maintain suits or actions in any court of competent jurisdiction to enforce the adopted zoning regulations and to abate nuisances maintained in violation thereof.

(c) Whenever any building or structure is or is proposed to be erected, constructed, altered, converted or maintained or any building, structure or land is or is proposed to be, used in violation of any zoning regulations, the city or county, or in the event the violation relates to a provision concerning flood plain zoning, the attorney general and the chief engineer of the division of water resources of the Kansas department of agriculture, in addition to other remedies, may institute injunction, mandamus, or other appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance or use or to correct or abate such violation or to prevent the occupancy of such building, structure or land.

(d) Any person, company, corporation, institution, municipality or agency of the state who violates any provision of any regulation relating to flood plain zoning shall be subject to the penalties and remedies provided for herein.

(e) The provisions of this section shall become effective on and after January 1, 1992.

**The Zoning Ordinance under Article XXIX: Administration, Section 5: Violations and Penalties reads as follows:**

**SECTION 5. VIOLATION AND PENALTY:** The owner or agent of a building or premises in or upon which a violation of any provision of this regulation has been committed or shall exist; or the lessee or tenant of an entire building or entire premises in or upon which violation has been committed or shall exist; or the agent, architect, building contractor or any other person who commits, takes part or assists in any violation or who maintains any building or premises in or upon which violation has been committed or shall exist, shall be punished by a fine not to exceed Five Hundred Dollars (\$500.00) for each offense. Each and every day that such violation continues shall constitute a separate offense.

In case any structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any structure or land is used in violation of this regulation, the appropriate authorities, in addition to other remedies, may institute injunction, mandamus, or other appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance of use, or to correct or abate such violation or to prevent the occupancy of said building, structure or land.

**The Zoning Ordinance under Article XXXI: Sign Regulations, Section 5: Penalties read as follows:**

**SECTION 5. PENALTIES:** Non-conforming Signs and Abatement Procedures: Any person, firm or corporation (persons herein) who:

1. Shall violate any of the provision of these Regulations;
2. Shall violate or fail to comply with any order made thereunder;
3. Shall construct a sign in violation of any detailed statement or specification or plans submitted and approved thereunder; or any permit issued thereunder, within the time fixed herein;
4. Shall construct, enlarge, alter, repair, improve, remove, convert, demolish, equip, or maintain any sign in violation of the provisions of these Regulations shall be served for each and every such

violation and noncompliance, respectively be guilty of a Class C violation as prescribed by the Public Offense Code of this city. The imposition of one penalty for any violation shall not excuse the violation or permit it to continue; and all such persons shall be required to correct or remedy such violations within a reasonable time; and when not otherwise specified, each ten (10) days that the prohibited conditions are maintained shall constitute a separate offense; and

5. The application of the above penalty shall not be held to prevent the enforced removal of the prohibited conditions.

**The Subdivision Regulations under Article XI: Administration, Section 5, Penalty reads as follows:**

**SECTION 5. PENALTY:** Any person violating the provisions of these Subdivision Regulations is guilty of a misdemeanor and, upon conviction thereof, shall be subject to a fine of five hundred dollars (\$500.00), plus costs, and shall stand committed to jail until such fine and costs be paid or otherwise discharged according to law. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as a separate offense.

# Affidavit in Proof of Publication

STATE OF KANSAS  
Wyandotte County

(Published in the Bonner Springs Chieftain, Thursday, December 30, 2010)

**NOTICE OF PUBLIC HEARINGS  
PLANNING COMMISSION  
CITY OF BONNER SPRINGS, KANSAS**

Erika Gray of the Legal Dept. of the Bonner Springs Chieftain being first duly sworn, deposes and says:

The Planning Commission will hold a public hearing on Tuesday, January 25, 2011, at 7:00 p.m. at City Hall in the Council Chambers, 205 E. 2nd Street, Bonner Springs, Kansas. The purpose of the public hearing is to receive public comment for:

That this weekly newspaper printed in the State of Kansas, and published in and of general circulation in Wyandotte County, Kansas, with a general paid circulation on a weekly basis in Wyandotte County, Kansas, and that said newspaper is not a trade, religious or fraternal publication, and which newspaper has been admitted to the mails as periodicals class matter in said County, and that a notice of which is hereto attached, was published in the regular and entire issue of the Bonner Springs Chieftain

**Zoning & Subdivision Amendments: BSZP-116: "Penalties for Zoning and Subdivision Violations":** The City Planner requests on behalf of the Planning Commission to consider an amendment to the Zoning Ordinance, Article XXIX, Section 5; Violation and Penalty; Article XXXI: Sign Regulations, Section 5; Penalties; and the Subdivision Regulations, Article XI, Section 5, Penalty to amend the language for penalties to be consistent with the provisions of State Law under K.S.A. 12-761: Violations, Penalties and Actions that apply to penalties for violations of the Zoning Ordinance, Sign Regulations and Subdivision Regulations.

Questions or comments may be addressed to the Planning Department located at 205 E. 2nd Street to Don E. Stone, AICP, CFM, City Planner/Floodplain Administrator at (913) 667-1708.

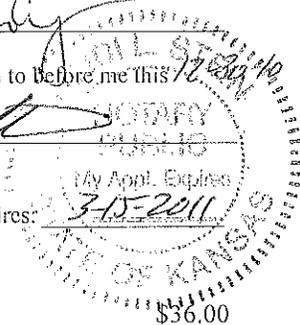
Persons who wish to be heard will be given an opportunity to make comments at the public hearing.

/s/ Don E. Stone, AICP, CFM  
Planning Commission Secretary

Said newspaper is published weekly 52 weeks a year; has been so published continuously and uninterruptedly in said county and state for a period of more than five years prior to the first publication of said notice and been admitted at the post office of Bonner Springs in said County as second class matter.

That the attached notice is a true copy thereof and was published in the regular and entire issue of said newspaper for 1 consecutive weeks the first publication thereof being made as aforesaid on 12/30/2010 with publications being made on the following dates:

12/30/2010

*Erika Gray*  
Subscribed and sworn to before me this 12/30/2010  
*[Signature]*  
Notary Public  
My Appointment expires: 3-15-2011  


Publication Charges	\$36.00
Notary And Affidavit	\$0.00
Additional Copies	\$0.00
	<u>\$36.00</u>

CITY OF BONNER SPRINGS  
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