

# APPEAL OF ADMINISTRATIVE INTERPRETATION

## WICHITA BOARD OF ZONING APPEALS

### INSTRUCTIONS FOR FILING AN APPLICATION

Appeals typically arise from situations where a particular Code provision is ambiguous or undefined as it pertains to a specific situation. In such situations, staff will interpret the Code provision and issue an order, requirement, decision, or determination. In making the interpretation, staff will evaluate the specific situation in light of the context or intent of the Code, the Official Zoning Map, the Comprehensive Plan, and any other relevant documents. If an applicant believes the interpretation of staff is in error, an Appeal of Administrative Interpretation application can be filed. Only a written interpretation can be appealed, and the Appeal must be filed no later than 30 days after the date the written interpretation was issued.

1. All applicants desiring to submit an Appeal should consult with the Metropolitan Area Planning Department (MAPD) prior to submitting a formal application. The purpose of the consultation is to advise the applicant of the rights and responsibilities in submitting such an application.
2. An Appeal application is referred to the Wichita Board of Zoning Appeals (BZA) for a public hearing. The BZA typically meets on the fourth Tuesday of each month in the 10<sup>th</sup> Floor Conference Room at Wichita City Hall, 455 N. Main. Refer to the BZA calendar for the exact schedule of hearing dates.
3. When deciding an Appeal, the BZA presumes that the administrative interpretation is correct and places the burden of persuasion of error on the applicant. In exercising its powers, the BZA may reverse or affirm wholly or partly or may modify the interpretation, and to that end has the powers of the staff member from whom the appeal is taken, may attach appropriate conditions, and may issue or direct the issuance of a permit. After the public hearing, but in no even later than 40 days from the hearing date (unless the applicant consents to a longer time period), the BZA will make a decision on the Appeal. The BZA may also determine that it is necessary to obtain additional evidence in order to resolve the Appeal and may remand the Appeal to obtain such evidence.
4. The BZA decision is the final local action on the Appeal. Any person, official, or governmental agency dissatisfied with the BZA decision may bring an action within 30 days in the District Court of Sedgwick County to determine the reasonableness of the BZA decision.
5. Appeals may only be granted upon an affirmative vote of at least four of the seven Members of the Board of Zoning Appeals, even if fewer than seven attend the public hearing. Applicants are advised that failure to receive four affirmative votes will result in the denial of the Appeal.
6. Applicants are advised not to engage in *ex parte* communication with the Members of the BZA. All materials and communication prior to the public hearing shall be directed to the MAPD, who shall cause such to be entered into the official record on the Appeal.
7. The applicant shall submit a completed application form for an Appeal. The application form must be signed by the appellant(s) or by the authorized agent(s) of such appellant and filed within 30 days after the administrative official has made a ruling. An Appeal may be filed by any person aggrieved or by any officer of the city or county or any governmental agency or body affected by the decision of the administrative official.
8. The applicant shall submit a copy of the written interpretation and any other documentation provided by the administrative official from whom the appeal is taken.
9. The applicant shall submit a written statement outlining in detail the manner in which it is believed that the administrative interpretation is in error.

10. The applicant shall submit an accurate site plan. The site plan shall be drawn to scale and show the location of property lines and buildings, parking areas, driveways and other improvements or facilities associated with the Appeal. One (1) 8.5" x 11" or 11" x 17" copy of the site plan shall be submitted. If the applicant desires to submit a larger site plan, twelve (12) 24" x 36" folded copies and one (1) 11" x 17" copy of the site plan shall be submitted. Other plans, drawings or information which the MAPD deems necessary to enable proper consideration of the Appeal may be required.
11. A certified ownership list from a title company shall be provided as directed by MAPD staff. If required, the certified ownership list shall the names and mailing addresses (including zip codes) of all owners of the application area, as well as all property within 200 feet of the application area.

The certified listing shall also be provided in an electronic format that is compatible with Microsoft Word 2007. The electronic file shall be provided via E-mail ([MCrockett@wichita.gov](mailto:MCrockett@wichita.gov) and [LEstrada@wichita.gov](mailto:LEstrada@wichita.gov)) or on a CD. An application shall not be considered complete until the ownership list has been provided in the required electronic format.

12. The applicant shall submit the required \$85 filing fee. All checks shall be payable to the "City of Wichita", which acts as agent for the MAPD.
13. Request for a deferral of the hearing of any Appeal shall be submitted to the MAPD at least 7 days prior to the scheduled hearing date. To cover the cost of preparing and mailing new notices, persons requesting a deferral will be charged a \$110 deferral fee.
14. All application materials and the filing fee are submitted at the MAPD, which is located on the 10<sup>th</sup> floor of Wichita City Hall, 455 N. Main and is open from 8 a.m. to 5 p.m. Monday thru Friday, excluding holidays. Applications should be submitted no later than 4 p.m. to allow time for application review and processing prior to the close of business. Incomplete applications will not be accepted. Questions regarding the application process may be directed to the MAPD at (316) 268-4421.

WICHITA BOARD OF ZONING APPEALS  
**APPEAL OF ADMINISTRATIVE INTERPRETATION**  
CHECKLIST OF REQUIRED APPLICATION MATERIALS

- Application form
- Copy of written interpretation
- Statement regarding error in administrative interpretation
- Site plan
- Certified ownership list (original document and electronic copy)
- Filing fee

**BOARD OF ZONING APPEALS**

**WICHITA, KANSAS**

**CASE NO.** \_\_\_\_\_  
**FILED** \_\_\_\_\_

**APPEAL OF ADMINISTRATIVE INTERPRETATION**

I. APPELLANT \_\_\_\_\_ PHONE \_\_\_\_\_  
ADDRESS \_\_\_\_\_ ZIP CODE \_\_\_\_\_

AGENT \_\_\_\_\_ PHONE \_\_\_\_\_  
ADDRESS \_\_\_\_\_ ZIP CODE \_\_\_\_\_

APPELLANT \_\_\_\_\_ PHONE \_\_\_\_\_  
ADDRESS \_\_\_\_\_ ZIP CODE \_\_\_\_\_

AGENT \_\_\_\_\_ PHONE \_\_\_\_\_  
ADDRESS \_\_\_\_\_ ZIP CODE \_\_\_\_\_

Relationship of appellant to property is that of \_\_\_\_\_  
(Owner, Tenant, Lessee, Other Party with Standing to Appeal)

II. The appellant herein appeals from the Administrative Interpretation, as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

for property generally located at: \_\_\_\_\_

and legally described as: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

in Wichita, Sedgwick County, Kansas; and which is presently zoned \_\_\_\_\_

The decision was rendered on \_\_\_\_\_ and refers to Section \_\_\_\_\_  
\_\_\_\_\_ of the \_\_\_\_\_ Code.

III. By his/her signature, the appellant, or his/her authorized agent, hereby acknowledges:

- a. That the appellant has received an instruction sheet concerning the filing and hearing of this matter;
- b. That the appellant has been advised of the fee requirements established by Governing Body and that the appropriate fee is herewith tendered;
- c. That the appellant has been advised of his right to bring action in the District Court of Sedgwick County to appeal the decision of the Board; and,
- d. That all documents are attached hereto as noted in the instructions.

Appellant: \_\_\_\_\_

Authorized Agent: \_\_\_\_\_

Appellant: \_\_\_\_\_

Authorized Agent: \_\_\_\_\_

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**For Office Use Only**

Map \_\_\_\_\_ Zoning (N) \_\_\_\_\_ (S) \_\_\_\_\_ (E) \_\_\_\_\_ (W) \_\_\_\_\_

BZA Date \_\_\_\_\_ Council District \_\_\_\_\_

Date \_\_\_\_\_ Fee \_\_\_\_\_ Received by \_\_\_\_\_

**Required Documents:**

\_\_\_Decision being appealed \_\_\_Legal Description \_\_\_Site Plan \_\_\_Written Statement \_\_\_Ownership List