

APPEAL OF ADMINISTRATIVE INTERPRETATION

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 Board of Zoning Appeals (BZA) for a public hearing. The BZA typically meets on every other Thursday of each month in the 2nd Floor Conference Room at The Ronald Reagan Building, 271 W. 3rd Street. Refer to the MAPC/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 no 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 be granted upon an affirmative vote of the majority of the members of the Board of Zoning Appeals. Applicants are advised that failure to receive majority vote 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) 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 (\$100 City) or (\$85 County) 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 (\$125 City) or (\$110 County) deferral fee.
14. All application materials and the filing fee are submitted at the MAPD, which is located on the 2nd floor of The Ronald Reagan Building, 271 W. 3rd Street 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

Note: When applying, please have yourself or your representative present during the processing of the application in case planners have questions or to correct possible errors on the application.

BOARD OF ZONING APPEALS

WICHITA, KANSAS

CASE NO. _____
FILED _____

APPEAL OF ADMINISTRATIVE INTERPRETATION

I. APPELLANT _____ PHONE _____
ADDRESS _____ ZIP CODE _____
EMAIL ADDRESS _____

AGENT _____ PHONE _____
ADDRESS _____ ZIP CODE _____
EMAIL ADDRESS _____

APPELLANT _____ PHONE _____
ADDRESS _____ ZIP CODE _____
EMAIL ADDRESS _____

AGENT _____ PHONE _____
ADDRESS _____ ZIP CODE _____
EMAIL ADDRESS _____

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: _____

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