

Bylaws of the Wichita-Sedgwick County Board of Zoning Appeals

Article I - Purpose and Organization

SECTION 1. The purposes of the Wichita-Sedgwick County Board of Zoning Appeals (the Board) are set forth in the Joint Ordinance and Resolution of the two Governing Bodies and those powers and duties delegated to the Board by K.S.A. 12-759.

Article II - Powers and Duties of the Board

SECTION 1. Powers. That said Board, as herein specified, shall be vested with the following powers and authority, to-wit:

To hear and decide all variances and appeals and other matters authorized by Kansas statute, the adopted Wichita-Sedgwick County Unified Zoning Code, and to perform all such other matters as authorized by duly adopted ordinances of the City of Wichita (the City) or resolutions of Sedgwick County (the County).

SECTION 2. Actions. In all formal matters, said Board shall act by motion, unless a resolution is required by law or governmental regulations. All notices required by law to be given by publication shall be published in the official City or County paper as may be appropriate.

SECTION 3. Oath. Before entering upon the duties of the office, the members of said Board shall subscribe to an oath of office, if required by the Governing Body appointing them.

SECTION 4. Seal. The Board shall maintain a seal, and the same have the word "Seal" in the center thereof, and the words "Wichita-Sedgwick County Board of Zoning Appeals," in or around the outer circle.

Article III - Meetings of the Board

SECTION 1. Regular Meetings. Regular meetings of the Board generally will be held on the Thursdays of the 2nd and 4th full weeks of each month, in accordance with a schedule of meeting dates approved by the Board each year. When the date of a regular meeting comes on a legal holiday, the Board may designate another date for the next regular meeting. Unless otherwise publicly announced by the Chairman, all meetings will be held in the Room 203 of the Ronald Regan Building at 271 West 3rd Street North, Wichita, Kansas, beginning after the start of the meeting of the Metropolitan Area Planning Commission, provided the Board may adopt another hour, date and place of holding its

meeting by majority vote. Any such change shall be given wide publicity for the convenience of persons having business before the Board.

SECTION 2. The Secretary or other authorized officer shall prepare an agenda of all matters to come before the Board and mail the same to the Board members no later than the Monday preceding the next regular meeting. A copy of the agenda shall also be furnished to the governing bodies, their managers, and the news media. Any member of the Board may cause matters to be placed on the agenda by advising the Secretary no later than 12 o'clock noon on the Friday preceding the next regular meeting. Off agenda items may be considered with the approval of a majority of the members present.

SECTION 3. Special Meetings. Special meetings may be called by the Chairman for whatever time and purpose the Chairman deems necessary or upon written request of any five members of the Board. In the event a special meeting is called, notice as to time, date, place and reason for the meeting shall be given to all the members, the City Manager of the City of Wichita, the Chairman of the Sedgwick County Board of County Commissioners, and the media, at least 24 hours before the meeting. Announcement of a special meeting at a regular meeting shall constitute notice to those members present. Members not present, the City Manager of the City of Wichita and the Chairman of the Sedgwick Board of County Commissioners shall be notified by the Secretary.

No matters other than those enumerated in the notice shall be considered at a special meeting.

SECTION 4. Open Meetings. All meetings of the Board shall be open to the public and to attendance by representatives of the news media.

SECTION 5. Recording of Minutes. The Board shall cause the Secretary to keep and maintain complete records of all matters coming before the Board. The Secretary shall also prepare and maintain permanent minutes to be kept in a binder available for public view and use during normal business hours. Permanent copies of minutes shall not be removed from the Office of the Secretary of the Board except by order of the courts. Copies of the minutes of the Board shall be furnished to all persons or bodies making request for same to the Secretary. The Secretary may make such charges as are necessary to recover the cost of making such copies.

SECTION 6. Quorum. A quorum of the Board shall be required to conduct official business. A quorum shall consist of a majority of the members of the Board appointed and qualified at any given time. The affirmative vote of a majority of those members present and voting shall be sufficient for the passage of all motions; except that the granting of a variance shall require a majority of all members. In the absence of a quorum at any meeting, the presiding officer may

adjourn the meeting to a specific time, date and place, which shall be publicly announced.

SECTION 7. Recessed Meetings. Should the business before the Board not be completed, the Chairman may recess the meeting to a specific time, date and place until the matters on the original agenda are acted on.

SECTION 8. Conduct of Meetings. The Chairman shall preside at all meetings of the Board, except in his/her absence, disability or vacancy, the Vice Chairman shall preside. In the absence, disability or vacancies of both the Chairman and Vice Chairman, the Secretary shall preside to elect an Acting Chairman.

SECTION 9. Parliamentary Procedure. All meetings of the Board and of its committees shall be conducted in accordance with Robert's Rules of Order, except insofar as modified by these bylaws and procedures adopted by the Board.

The Board may suspend the rules, provided that the motion to suspend the rules take precedence over other prime motions; provided a motion to suspend the rules shall state the specific purpose and rule to be suspended; provided that no motion to suspend the rules shall be considered approved unless the length of time suspension will be in effect has been specified; provided that the motion to suspend the rules shall be approved by a majority of the members present; and provided that no suspension of the rules shall be considered permanent.

Presentations by the applicant and his/her representative(s) on items shall be limited to ten minutes at the beginning of the hearing on that item, plus an additional two minutes for rebuttal at the end of the hearing. Presentations by other members of the audience shall be limited to three minutes. The time for presentations may be extended by up to two minutes by the Chairman. Prerecorded audio-visual presentations shall be included in the time limit of each speaker. All written and visual materials (or copies) used as part of a presentation to the Board at the hearing shall be retained by the Secretary as part of the official record for that item. Debate from the floor (audience) on any matter may be limited at the discretion of the presiding officer when in his/her opinion such debate is repetitious, contains statements impinging the character, integrity or actions of the Board or any Board member without support of such allegations, or when the course of business due to the number of matters to be considered and/or number of people requesting to be heard will not permit further debate. Each member of the Board may speak to an issue as many times as may be desired.

Any member remaining silent on a vote shall be considered to have voted in the affirmative. The Chair shall grant permission upon request for any member to refrain from participating in the discussion and voting on an item when said member advises the Chair of matters arising under the provisions of Section 10

pertaining to that item. Such member shall be recorded as abstaining on the vote but shall be counted for the purposes of determining a quorum.

SECTION 10. Conflict of Interest and Ethical Considerations.

Members shall not assist or represent applicants on matters in the presence of the Board. Members may appear and speak before the Board under the provisions of this section where the member owns property or is a prospective purchaser of property included in an application or the member owns property in the statutory notification area of an application.

A member shall not participate or vote on an issue before the Board if: the member has a substantial interest on a particular issue as defined by state law; the member has expressed an individual opinion on the determination of a quasi-judicial matter or otherwise expressed himself or herself in a way that infers an opinion has been formed prior to the Board's hearing on the matter; the member owns property or is a prospective purchaser of property included in any application, or the member owns property in the statutory notification area.

Prior to any motion on an application, Board members shall disclose the nature of any ex parte contacts and of any information obtained through those contacts that may have a bearing on their decisions.

Article IV – Cases before the Board

SECTION 1. Notice to the applicant shall be given not less than 30 days prior to the date of hearing and shall be by mail to his or her last known address.

For applications in the City of Wichita, notice to all property owners within a distance of 200 feet of the property involved in a variance or an appeal of a decision of the Zoning Administrator, as listed on the certified abstract ownership list accompanying the application, shall be given by mail not less than 20 days prior to the date of hearing.

For applications in the unincorporated area of Sedgwick County, notice to all property owners within a distance of 1000 feet of the property involved in a variance or an appeal of a decision of the Zoning Administrator, as listed on the certified abstract ownership list accompanying the application, shall be given by mail not less than 20 days prior to the date of hearing.

All notices by mail shall be directed to the addresses stated in the certified ownership list accompanying the application.

The Secretary shall cause to be published in the official City and the official County paper a notice of public hearing of said meeting at least 20 days prior to the date of hearing, as provided by law.

The procedure for requesting a hearing before the Board of Zoning Appeals shall be as follows:

An application (appeal or variance) shall be filed with the Secretary of the Board on forms furnished by the Secretary (Ronald Regan Building, 271 West 3rd Street North, Room 201, Wichita, Kansas.)

An application shall be accompanied by a filing fee as specified in the list of current fees available at the Metropolitan Area Planning Department.

In addition to the above requirements, certain applications require additional information, as follows:

Appeals

The appeal shall be filed within thirty (30) days after a ruling has been made by the Zoning Administrator.

The order, requirement, decision or determination by the Zoning Administrator which the appellant believes to be in error; and the principal points supporting the appellants, allegation of errors, including reference to that Section of the Unified Zoning Code under which it is claimed the permit should be issued.

A clear and accurate description of the proposed work, use or action, in which the appeal is involved, and a statement as to why or in what manner an error has been made.

The Zoning Administrator, or his authorized representative, shall be represented at all hearings before the Board; and shall then make available to the Board all records regarding the matter.

A plot plan drawn to scale showing the proposed plan of improvements, when deemed necessary by the Secretary.

Variances

A statement from the applicant justifying the variance requested; indicating specifically the enforcement provisions of the Unified Zoning Code from which the variance is requested and to what degree such a variance is requested.

A specific statement outlining in detail the manner in which it is believed that this application will meet the requirements of Section V-G.6 of the Unified Zoning Code.

A sketch, drawn to scale, showing the lot or lots included in the application; the structures existing thereon; and the structure or use contemplated necessitating the variance requested.

SECTION 2. Requests for rehearing shall be in writing and duly verified and shall be submitted to the Secretary of the Board within 60 days of the date of the original hearing. The request shall recite the reasons for the request. No requests for rehearing shall be entertained unless new evidence is submitted which could not reasonably have been presented at the previous hearing. If the request is granted by the Board, the same procedure will be followed as was followed in consideration of the original application.

The Board of Zoning Appeals shall determine if a rehearing will be allowed.

SECTION 3. No application shall be considered wherein an application has been previously decided, involving the same premises; except in cases where new plans or new facts are presented, showing changed conditions or circumstances which, in the opinion of the Board, materially alter the aspects of the case. Each new reconsideration shall be considered a new case, requiring a filing fee.

SECTION 4. No application shall be advertised for a public hearing for property wherein a change of zoning or other development application is first necessary until the zone change amendment or other development application is approved by the appropriate Governing Body.

Article V – Organization

SECTION 1. Officers. Officers of the Board shall be the Chairman, Vice Chairman, and Secretary. The Chairman and Vice-Chairman shall be same as the Chairman and Vice-Chairman of the Metropolitan Area Planning Commission. The Secretary shall be the Principal Planner of the Metropolitan Area Planning Department or his/her designee.

The Chairman shall not succeed himself or herself the following year.

The Chairman shall conduct all meetings and business, and sign resolutions or other official papers and documents.

The Vice Chairman shall act in the manner and capacity as the Chairman in the absence of the Chairman.

The Secretary shall conduct all the business for the Board as directed and set forth by these bylaws. The Secretary of the Board shall, when required by law, authenticate by the seal of the Board and the signature of the Secretary, the signature of the Chairman.

SECTION 2. The Board may, by a two-thirds majority vote thereof, amend these bylaws or any provisions or sections thereof at any time when the same is not in conflict or in contravention of any of the laws of the State of Kansas or ordinances or resolutions applicable thereto. Provided, however, that notices of the proposed amendments be furnished by the Secretary to the Board members not less than five (5) days prior to the meeting at which said amendments are to be considered. A copy of the bylaws will be filed with the Office of the City Clerk of the City of Wichita and the Office of the Sedgwick County Clerk.

Article VI. Adoption.

SECTION 1. The above and foregoing bylaws are hereby adopted as the bylaws of the Wichita-Sedgwick County Board of Zoning Appeals.

David W. Foster, Chairman

David M. Clements, AICP, Secretary