

## ORDINANCE NO. 8535

AN ORDINANCE RELATING TO CHAPTER 20, THE DEVELOPMENT CODE OF THE CITY OF LAWRENCE, KANSAS OF THE CODE OF THE CITY OF LAWRENCE, KANSAS 2009 EDITION AND AMENDMENTS THERETO; AMENDING CHAPTER 20, ARTICLE 13, SECTIONS 20-1310 AND 20-1311 PERTAINING TO WRITTEN INTERPRETATIONS AND APPEALS OF ADMINISTRATIVE ORDERS, REQUIREMENTS, DECISIONS, OR DETERMINATIONS; AND REPEALING THE EXISTING SECTIONS

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LAWRENCE, KANSAS:

**SECTION ONE:** Chapter 20, Article 13, Section 20-1310 of the Code of the City of Lawrence, Kansas, 2009 Edition, and amendments thereto is hereby amended and shall read as follows:

### 20-1310 WRITTEN INTERPRETATIONS

#### (a) Application Filing

Applications for written interpretations of this Development Code shall be submitted to the [Planning Director](#).

#### (b) [Planning Director](#)'s Review and Decision

Following receipt of a complete application for a written interpretation, the [Planning Director](#) shall: (1) review and evaluate the application for compliance with this Development Code and consistency with the [Comprehensive Plan](#) and any other relevant documents; (2) consult with other staff, as necessary; (3) request additional information or documentation, as necessary; and (4) render a written interpretation **within 30 calendar days following receipt of a complete application.**

#### (c) Form

The interpretation shall be provided to the applicant in writing and be filed in the official record of interpretations.

#### (d) Official Record of Interpretations

An official record of interpretations shall be kept on file by the [Planning Director](#). The record of interpretations shall be available for public inspection from the [Planning Director](#) during normal business hours.

#### (e) Appeals

Appeals of the [Planning Director](#)'s written interpretation may be taken to the Board of Zoning Appeals in accordance with procedures of Section 20-1311. If the appeal results in a change of interpretation, the new interpretation shall be filed in the official record of interpretations maintained by the [Planning Director](#). **Staff review/reports required by the Development Code shall not be considered a written interpretation of the Development Code and are not appealable to the Board of Zoning Appeals.**

**SECTION TWO:** Chapter 20, Article 13, Section 20-1311 of the Code of the City of Lawrence, Kansas, 2009 Edition, and amendments thereto is hereby amended and shall read as follows:

### 20-1311 APPEALS OF ADMINISTRATIVE ORDERS, REQUIREMENTS, DECISIONS, OR DETERMINATIONS

**(a) Authority and Applicability**

Unless specifically provided for otherwise in this Development Code, the Board of Zoning Appeals is authorized to hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by an administrative official in the administration or enforcement of the provisions of this Development Code. **Staff review/reports required by the Development Code and considered by the Planning Commission at a public hearing shall not be considered an order, requirement, decision or determination and shall not be appealable to the Board of Zoning Appeals.** The Planning Commission is not an “administrative official” for purposes of this Development Code and the Board of Zoning Appeals shall have no jurisdiction to consider an appeal from any action, determination or failure to act by the Planning Commission. **Development Review Procedures of Article 13 of the Development Code are not administrative orders, requirements, decisions or determinations and the Board of Zoning Appeals shall have no jurisdiction to consider an appeal from any of the development review procedures.**

**(b) Application Filing**

Appeals of administrative decisions shall be filed with the Planning Director. The appeal shall be filed within 10 Working Days after the administrative official's **order, requirement, decision, or determination**. Appeals may be filed by any person aggrieved, or by any officer of the City, or any governmental agency or body affected by any decision of an administrative official.

**(c) Effect of Filing**

The filing of ~~an a complete~~ application for an appeal of administrative **order, requirement, decision, or determination** stays all proceedings in furtherance of the action appealed, unless the official whose decision is being appealed certifies to the Board of Zoning Appeals, after the appeal is filed, that, because of facts stated in the certification that (a) a stay would cause immediate peril to life or property or (b) the situation appealed from is transitory in nature, and therefore, an appeal would seriously interfere with enforcement of this Development Code. In each instance, the official whose decision is being appealed shall place in the certificate facts to support the conclusion. In such case, proceedings will not be stayed other than by a restraining order, which may be granted by the Board of Zoning Appeals or by a court of record.

**(d) Record of Administrative Decision**

The official whose decision is being appealed shall transmit to the Board of Zoning Appeals all documents constituting the record upon which the action appealed is taken.

**(e) Public Hearing Notice**

Newspaper and mailed notice of the Board of Zoning Appeals' public hearing on the appeal shall be provided in accordance with Section 20-1301(q). A copy of the notice shall also be mailed to each party to the appeal and to the Planning Commission at least 20 days before the date of the hearing.

**(f) Review and Decision**

- (1) The Board of Zoning Appeals shall hold a public hearing on the appeal and, following the close of the public hearing, take final action based on the procedures and requirements of this section.
- (2) In exercising the appeal power, the Board of Zoning Appeals has all the powers of the official from whom the appeal is taken, and the Board of

Zoning Appeals may reverse or affirm wholly or in part or may modify the decision being appealed.

- (3) If the Board of Zoning Appeals determines that it is necessary to obtain additional evidence to resolve the matter, it shall remand the appeal to the official from whom the appeal is taken, with directions to obtain the needed evidence and to reconsider the decision in light of that evidence.

**(g) Approval Criteria; Findings of Fact**

The Board of Zoning Appeals may reverse an order, requirement, decision, or determination of any administrative official only when the Board of Zoning Appeals finds substantial, factual evidence in the official record of the application that the administrative official erred. The decision of the Board of Zoning Appeals shall be supported by written findings of fact prepared by the Board of Zoning Appeals.

**(h) Filing and Mailing of Decision**

Every decision or determination by the Board of Zoning Appeals shall be:

- (1) filed in the office of the City Clerk not more than seven (7) **Working Days** following the date of hearing; and
- (2) mailed to the applicant and all other parties who have made a written request for notification not more than seven **(7) Working Days** following the date of the hearing.

**(i) Date of Effect**

Decisions on appeals become effective on the date the Board of Zoning Appeals makes its decision.

**(j) Appeals**

Within 30 days of the date of effect of the Board of Zoning Appeals' decision, any person aggrieved by such decision may maintain an action in District Court to determine the reasonableness of the final decision.

**SECTION THREE:** That Chapter 20, Article 13, Sections 20-1310 and 20-1311 of the Code of the City of Lawrence, 2009 Edition and amendments thereto, are hereby repealed it being the intent that the provisions of this ordinance supersede the repealed code provisions.

**SECTION FOUR:** If any section, clause, sentence, or phrase of this ordinance is found to be unconstitutional or is otherwise held invalid by any court of competent jurisdiction, it shall not affect the validity of any remaining parts of this ordinance.

**SECTION FIVE:** This ordinance shall take effect and be in force from and after its passage and publication as provided by law.

Passed by the Governing Body this \_\_\_\_ day of \_\_\_\_\_, 2010.

**APPROVED:**

\_\_\_\_\_  
Mike Amyx, Mayor

**ATTEST:**

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Jonathan M. Douglass, City Clerk

**APPROVED AS TO FORM AND LEGALITY:**

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Toni Ramirez Wheeler  
Director of Legal Services

Publish one time and return one Proof of Publication to the City Clerk and one to the Director of Legal Services.