

# Memorandum

## City of Lawrence

### Planning and Development Services

TO: Corby Rust, LandPlan Engineering  
CC: File  
FROM: Jeff Crick, Planning and Development Services Director  
DATE: ~~November 16, 2023~~ January 10, 2024  
RE: Request for a Written Interpretation of Section 20-1204(a)(1) and Section 20-107(b) of the Land Development Code.

Upon further research, this interpretation has been updated to reflect "no rise" being measured as 0.00 feet instead of 0.00 inches to reflect the commonly used standard of measurement.

#### APPLICANT REQUEST

The applicant has applied for a written interpretation of the Land Development Code pursuant to the City Code at City of Lawrence, Kan., Code § 20-1310 (Jan. 1, 2018). The request is for a written interpretation of the City Code at City of Lawrence, Kan., Code §20-1204(a)(1) and §20-107(b) (Jan. 1, 2018). The reason for the request is:

"On September 14, 2023, the development team for the New Boston Crossing project met with various city staff to discuss the project. One issue that developed during the meeting is the staff interpretation of no-rise- meaning a rise of 0.0 or less, which is an uncommon definition for most applications. We understand that this involves the floodplain section of the code and the interpretation section of the code. Respectively we understand that this is relevant to the sections listed above according to an email from Jeff Crick to Rob Richardson. We request the Planning Director give their written interpretation of the code and the basis of that interpretation."

#### APPLICABLE CODE SECTIONS

[City Code at City of Lawrence, Kan., Code Chapter 20 \(Jan. 1, 2018\)](#)

1. Section 20-1204(a)(1)
2. Section 20-107(b)

#### INTERPRETATION

Section 20-1204(a)(1) pertains to "Provisions for Flood Hazard Reduction" and states:

- (a) Development of Property in the Floodplain Overlay District
  - (1) Development of land or subdivision of property (including Lot splits) into a Buildable Lot(s) within the Floodplain Overlay District shall be permitted only where an approved Hydrologic and Hydraulic Study



demonstrates that there will be no rise in the Base Flood Elevation and no increase in Flood velocities at any point resulting from the proposed Development.

This standard was incorporated into the code with a text amendment in 2001 (TA-09-05-01) that enacted a series of higher regulatory standards for the purpose of floodplain management to further protect the community from flood losses. That text amendment was shepherded through the process by a special project committee of the Planning Commission, whose primary goal was that "Development in the floodplain should not adversely affect other property owners". According to the staff report associated with the text amendment, this section is meant to show "that the proposed development in the Floodplain Overlay District does not increase the BFE [Base Flood Elevation] or flood water velocities".

Section 20-107(b)(1) and (2) pertains to "General Rules for Interpreting the Development Code".

(b) Meanings and Intent

(1) The language of the Development Code shall be read literally. Regulations are no more or less strict than stated. Words used in the Development Code have the standard dictionary definition unless they are defined in Article 17. Words defined in Article 17 have the specific meaning assigned, unless the context expressly indicates another meaning.

(2) Words or terms that are specifically defined in this Development Code are distinguished by being in Title Case and in Blue Text in the original code document.

The applicant is requesting an interpretation related to the phrase "no rise" in Section 20-1204(a)(1). "No rise" is not a term that is defined in Article 17, nor Article 12. Therefore, as stated in Section 20-107(b), the standard dictionary definition shall apply.

The Merriam-Webster Dictionary defines "no" as "not any" and "rise" as "to move upward" or "to increase in height". Together, "no rise" is defined as "not any increase in height" or a 0.00 ~~inch~~ **feet** rise.

This interpretation is consistent with the Findings of Fact outlined at the beginning of the Floodplain Management Regulations in Section 20-1201. That section states:

(1) The Areas of Special Flood Hazard of Lawrence, Kansas, are subject to inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for Flood protection and relief, and impairment of the tax base; all of which adversely affect the public health, safety, and general welfare.

(2) These Flood losses are caused by:

(i) the cumulative effect of Development in any delineated Floodplain causing increases in Flood Heights and velocities;

(ii) urbanization of upstream areas, resulting in increased Impervious Surface and increased stormwater runoff;

(iii) the occupancy of Flood hazard areas by uses vulnerable to Floods, hazardous to others, inadequately elevated, or otherwise unprotected from Flood damages; and

(iv) the modification of the Floodplain by grading or filling.



Section 20-1310 also requires the City to review and evaluate the application for a written interpretation for consistency with the Comprehensive Plan, *Plan 2040*. Plan 2040 contains numerous goals and action items in support of flood protection measures and is related to the Findings of Fact listed above contained in Section 20-1201 of the Land Development Code. Chapter 2: Environment & Natural Resources, Goal 1 focuses on our water resources and states “Manage water resources to ensure continued natural habitat ecosystem services. Of note are the following two action items:

Chapter 2, Goal 1, Action Item 1.2: Consider and mitigate development impacts on the watershed.

Chapter 2, Goal 1, Action Item 1.8: Strengthen floodplain regulations to mitigate flood hazards and decrease vulnerability of life and property.

Staff would point out that this standard is a higher regulatory standard that is more restrictive than Federal and State regulations.

### **STAFF FINDINGS**

Accordingly, Staff finds the City’s interpretation that “no rise” is defined as a 0.00 ~~inch~~ feet rise to be consistent with the City Code.

### **COMPLIANCE WITH THE LAND DEVELOPMENT CODE**

This Code Interpretation is a final decision of the Planning Director and may be appealed to the Lawrence Board of Zoning Appeals within 10 working days from the date of this interpretation, in accordance with City of Lawrence, Kan. Code § 20-1310 (Jan. 1, 2018).

Appeals of the Planning Director’s written interpretation may be taken to the Board of Zoning Appeals in accordance with procedures established at City of Lawrence, Kan. Code § 20-1311 (Jan. 1, 2018). If the appeal results in a change of interpretation, then 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.

