

**BY-LAWS
OF THE
BOARD OF ZONING APPEALS
BASEHOR, KANSAS**

The Board of Zoning Appeals ("Board") of the City of Basehor, Kansas, has adopted the following by-laws to govern all proceedings before the Board.

I. OFFICERS.

A. **Chair and Vice-Chair.** The Board shall elect one of its members as a Chair and one of its members as a Vice-Chair. Each member so elected shall serve one (1) year or until a successor has been elected. There shall be no limit on the number of terms that any member may serve as Chair or Vice-Chair.

B. **Secretary.** The Board shall elect a Secretary. The Secretary need not be a member of the Board. The Secretary shall serve for a one (1) year term or until a successor has been elected. There shall be no limit on the number of terms that any person may serve as Secretary. If the Secretary is absent from a Board meeting, the Board shall appoint a Secretary pro-tem for the meeting who shall have the same duties and responsibilities as the Secretary.

II. DUTIES OF OFFICERS.

A. **Duties of the Chair.** The Chair shall be the presiding officer at all meetings of the Board. The Chair may at the Chair's discretion:

1. Call special meetings of the Board;
2. Adjourn or recess the Board from an open session to a closed deliberative session; and
3. Determine all points of order and procedure not otherwise specified in these by-laws.

B. **Duties of the Vice-Chair.** The Vice-Chair shall serve in the absence of the Chair, and in so doing shall have the same duties as the Chair.

C. **Duties of the Secretary.** The Secretary shall be in attendance at all meetings of the Board and shall keep minutes in accordance with the provisions herein.

III. **BOARD MINUTES.** Minutes shall be kept of Board proceedings. The minutes shall accurately reflect the business conducted by the Board, a summary of evidence presented at a public hearing, findings of fact by the Board, resolutions and other decisions of the Board and votes taken by the Board on any issue. Roll call votes shall be reflected in the minutes when the Chair or any member has called for a roll call vote. If any member is absent from a hearing or fails to vote, the minutes shall reflect that fact. The official minutes of the Board shall be approved by the Board, signed by the

Secretary and filed at City Hall. No minutes shall be made of closed deliberative sessions of the Board that are permitted to be closed sessions under the law.

IV. **MEETINGS.** Meetings of the Board shall be at the call of the Chair and at such other times as the Board may determine.

V. **MOTIONS AND VOTING.** A vote shall be taken on all motions that are made by a member of the Board and seconded by another member of the Board. Votes shall be taken by voice, provided that any member may request and by doing so, require a roll call vote. A motion shall fail unless at least a majority of a quorum of the Board votes in favor of it. No binding action shall be taken by the Board during any closed deliberative session.

VI. **APPEALS AND HEARING PROCEDURE.**

A. **Matters that may be appealed to the Board.** The following matters may be appealed to the Board in accordance with applicable law and the by-laws adopted herein:

1. **Appeal requesting variance from Zoning Regulations.** Whenever a person has been denied a building permit because the activity for which the permit is requested requires a variance from the Zoning Regulations to be lawful, such person may file an appeal to the Board requesting a variance from the Zoning Regulations.

2. **Appeal from a decision of the City Administrator, City Clerk or other officer administering the provisions of the Zoning Regulations or Building Code.** An appeal to the Board may be taken by any person aggrieved, or by any officer of the City, County or any governmental agency or body affected by any decision of the City Administrator, City Clerk or other officer administering the provisions of the Zoning Regulations or Building Code.

B. **Manner in which appeals shall be filed.** All appeals to the Board shall be filed in writing with the City Clerk. The appeal shall set forth the grounds for the appeal and identify the person(s) filing the appeal.

C. **Appeal fees.** No appeal will be deemed filed until any required fee is paid to the City Clerk.

D. **Time within which appeal must be filed.** An appeal requesting a variance from the Zoning Regulations must be filed within thirty (30) days of the denial of the permit requested. All other appeals must be filed within thirty (30) days of the decision at issue.

E. **Time for hearing.** After an appeal has been properly filed with the City Clerk, the Chair and City Clerk shall fix a reasonable time for the hearing. If the Board

fails to act on an appeal within sixty (60) days after an appeal has been properly filed with the City Clerk, the person appealing may deem the request denied.

F. **Published notice.** After an appeal has been properly filed and the time for hearing set, notice of the time, place and subject of such hearing shall be published in the official City newspaper at least twenty (20) days prior to the date fixed for hearing. A copy of the notice shall be mailed by the City Clerk to each party to the appeal, to owners of property adjacent to any property at issue in the appeal and to the Planning Commission. Mailed notice shall be deemed complete on mailing. The failure of any person to receive any such mailed notice shall not invalidate any subsequent action taken by the Board.

G. **Hearing procedure.** At appeal hearings before the Board, the following procedures will apply as applicable to the type of appeal being heard:

1. The Chair or City staff shall advise the public in attendance of the matter that is the subject of the hearing.
2. The Chair may establish time limits for any person who addresses the Board;
3. All statements or questions by the public shall be directed to the Board and to no other person in attendance at the hearing;
4. The Chair may at any time adjourn or recess the Board from a public hearing to a deliberative session;
5. The person filing the appeal shall be the initial party to address the Board at the public hearing;
6. The Chair shall ask for comments from the public and the Secretary shall include a summary of the comments in the minutes for the meeting;
7. The Board may close the hearing when it determines that sufficient information has been received, or it may continue the hearing to another date. Whenever any hearing is continued, the Chair shall announce to those persons then in attendance the date and time to which the hearing will be continued; and
8. To ensure order at the public hearing, the Chair shall adopt such other rules and procedures as the Chair deems appropriate to govern the hearing.

VII. **BOARD STANDARDS OF REVIEW AND POWERS.** The following standards of review and powers are hereby adopted by the Board when it hears the appeals identified below:

A. **Appeal requesting a variance.** Whenever an appeal is filed with the Board requesting a variance from the Zoning Regulations, the Board may grant a variance upon a finding by the Board that all of the following conditions have been met:

1. That the variance requested arises from such condition which is unique to the property in question and which is not ordinarily found in the same zone or district; and is not created by an action or actions of the property owner or the applicant;
2. That the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents;
3. That the strict application of the provisions of the Zoning Regulations of which variance is requested will constitute unnecessary hardship upon the property owner represented in the application;
4. That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare; and
5. That granting the variance desired will not be opposed to the general spirit and intent of the Zoning Regulations.

No variance may permit any use not permitted by the Zoning Regulations in such district. In granting any variance, the Board shall prescribe any condition that it deems to be necessary or desirable.

B. **Appeals from a decision of the City Administrator, City Clerk or other officer administering the provisions of the Zoning Regulations or Building Code.**

The Board shall have the power to hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by the City Administrator, City Clerk or other officer administering the provisions of the Zoning Regulations or Building Code. If a decision of an officer is appealed, the officer whose decision has been appealed, when notified by the City Clerk of the appeal, shall arrange to transmit to the Board all papers constituting the record upon which the action appealed from was taken. Whenever a party appeals any decision of the City Administrator, City Clerk or other officer administering the provisions of the Zoning Regulations or Building Code, the Board shall review the matter *de novo*. In exercising the foregoing powers, the Board may reverse or affirm, wholly or in part, or modify the order, requirements, decision or determination as in its opinion should be done under the circumstances.

C. **General Powers.** The Board shall have such other powers and duties as are prescribed by Kansas law. With respect to any appeal before the Board or any matter referred to it under these Zoning Regulations, the Board shall have all of the powers of the officer or board from whom the appeal is taken, may attach appropriate conditions, and may issue or direct the issuance of a permit.

VIII. **DECISION BY THE BOARD.** The final disposition of any appeal to the Board shall be in the form of a resolution, which shall affirm, modify or reverse the order or decision from which the appeal is taken. The resolution shall contain the Board's findings of fact with respect to the appeal and shall be adopted by the Board and made a part of the Board's minutes.

IX. **APPEALS FROM DECISION BY THE BOARD.** Any person aggrieved by any action or inaction of the Board may bring an action in the District Court of Johnson County, Kansas to determine the reasonableness of such order or determination. Such appeal shall be filed within thirty (30) days of the final decision of the Board. A decision of the Board shall not be a final decision until the Board adopts a resolution setting forth its decision in writing.

X. **BY-LAWS.** These by-laws may be amended or repealed by an affirmative vote of a majority of the members of the Board.

Adopted by the Board of Zoning Appeals of the City of Basehor, Kansas, on the
13th day of February, 2024.



Secretary