

(Published in the Topeka Metro News August 15, 2022)

ORDINANCE NO. 20366

AN ORDINANCE introduced by Interim City Manager William E. Cochran, concerning the Board of Building and Fire Appeals by amending § 2.235.010 of the Topeka Municipal Code.

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

Section 1. That section 2.235.010, Board of Building and Fire appeals, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Board of building and fire appeals.

(a) There is hereby created a board of building and fire appeals consisting of seven members appointed pursuant to TMC 2.205.010. However, a candidate who is otherwise qualified but does not reside in the City may be appointed if the candidate resides in Shawnee County and is employed or operates a business within the City. The members of the board shall be currently licensed or engaged in or have substantial past experience in the following fields or professions: licensed professional engineer, licensed architect, licensed commercial contractor, or other experienced professional working in a field related to building construction. The board shall always consist of at least two engineers, two architects, and one contractor. Members shall serve a two-year term. Members shall not serve beyond the end of their appointed terms. Upon expiration of a term the position shall remain vacant until a successor is appointed. The city attorney, city fire chief and development services director or their designees shall serve as nonvoting ex officio members of the board. The development services director or his or her designee shall serve also as secretary of the board. Copies of current adopted codes will be made available to board members.

28 (b) The board of building and fire appeals shall adopt reasonable rules and
29 regulations for conducting its investigations and shall render all decisions and findings in
30 writing to the development services director and the fire chief with a duplicate copy to
31 the appellant.

32 (c) The board of building and fire appeals shall consider appeals from
33 decisions of the director of development services, the fire chief or their designees with
34 regard to the following:

35 (1) The suitability of alternate materials, methods and type of
36 construction.

37 (2) Interpretations of the provisions of the commercial and residential
38 building codes, building conservation code, existing building code, fire code,
39 energy conservation codes, and life safety code.

40 (3) Granting variances from the codes identified in subsection (c)(2) of
41 this section. A variance may be granted only upon a determination that such
42 variance will not endanger life, property or public safety. Where a variance is
43 sought with respect to a historic structure that is listed on the National Register of
44 Historic Places, the Register of Historic Kansas Places, or is designated a city
45 historic landmark, the board shall specifically consider the structure's historic
46 recognition in reaching its decision, exerting an affirmative effort to preserve the
47 structure's historic integrity in effecting any necessary changes. Pursuant to this
48 goal, the board shall consult with the planning department director or designee.

49 (d) Decisions by the board may be appealed by the applicant to the governing
50 body by submitting to the city clerk within 10 days of the date of notification a request for

51 ~~a hearing before the governing body. The governing body may affirm, modify or reject~~
52 ~~the board's decision~~ to the district court pursuant to K.S.A. 60-2101.

53 (e) The board of building and fire appeals may request other boards and
54 commissions of the city, including the electrical, mechanical or plumbing boards, to
55 provide technical assistance and recommendations. In addition, the board of building
56 and fire appeals may require substantiating data or tests to determine the suitability and
57 feasibility of allowing the variance requested by the applicant.

58 (f) A filing fee of \$100.00 shall be paid in advance by any party appealing to
59 the board.

60 Section 2. That original § 2.235.010 of the Code of the City of Topeka,
61 Kansas, is hereby specifically repealed.

62 Section 3. This ordinance shall take effect and be in force after its passage,
63 approval and publication in the official City newspaper.

64 Section 4. This ordinance shall supersede all ordinances, resolutions or rules,
65 or portions thereof, which are in conflict with the provisions of this ordinance.

66 Section 5. Should any section, clause or phrase of this ordinance be declared
67 invalid by a court of competent jurisdiction, the same shall not affect the validity of this
68 ordinance as a whole, or any part thereof, other than the part so declared to be invalid.

69 PASSED AND APPROVED by the City Council on August 9, 2022.

70 CITY OF TOPEKA, KANSAS

71 _____
72 Michael A. Padilla, Mayor

73 ATTEST:

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75 Brenda Younger, City Clerk
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