

ORDINANCE NO. 40-736

*1st Reading
8-1-89*

AN ORDINANCE REVISING CERTAIN BOARDS AND COMMISSIONS OF THE CITY OF WICHITA BY COMBINING THE BOARD OF HOUSING STANDARDS AND APPEALS AND THE BOARD OF EXAMINERS AND APPEALS INTO A NEW BOARD OF CODE STANDARDS AND APPEALS; BY AMENDING SECTIONS 18.04.015, 20.04.150, 20.04.160 AND REPEALING THE ORIGINALS OF SAID SECTIONS.

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

SECTION 1. Section 18.04.015 of the City of Wichita, Kansas, is hereby amended to read as follows:

"Board of code standards and appeals created - Duties.

(a) In order to determine the suitability of alternate materials and types of construction, and to provide for reasonable interpretations of the provisions of this building code, hear and decide appeals of orders, decisions, or determinations made by the building official (superintendent of central inspection) relative to the application and interpretations of this code, there is created a board of code standards and appeals consisting of nine members who are qualified by experience and training to pass upon matters pertaining to building construction. The board shall have no authority relative to interpretation of the administrative provisions of this code nor shall the board be empowered to waive requirements of this code. The Board is also constituted to act in an advisory

AMENDED AND REPEALED BY

ORD. NO. 41-498

DATE 9-10-91

capacity to the city council in the amending and revision of the housing code (chapter 20.04 of the code), to act as a board of appeals from the hearings conducted by the superintendent of central inspection under the housing code, to act as the agent of the superintendent of central inspection in hearings as provided in Section 20.04.180 of this code, and to act in an advisory capacity to the city council in condemnation hearings of dangerous and unfit buildings (chapter 18.16 of this code). The board of code standards and appeals is designated as the successor to all powers and duties previously vested in the board of examiners and appeals and the board of housing standards and appeals and all reference to such boards in this code is deemed to be reference to the board of code standards and appeals.

(b) The board shall consist of two licensed architects, one licensed structural engineer, three contractors (one from each of Classes A, B, and C), and one representative from real estate appointed by the city council. The city manager shall appoint two members from the public-at-large. The nine members named above shall be residents of the city and shall not be employees of the city. The central inspection superintendent shall be an ex officio member and serve as secretary to the board but shall have no vote on the board. The mayor, with approval of the city council,

the approval of the city council, shall designate and appoint the members.

(c) The terms of office shall be as set forth in Section 2.12.010(1).

(d) The architect and the engineer shall be licensed by the state to practice their respective professions in the state. The board shall make an annual review of the building code and shall recommend to the city council for adoption of such changes in the code as are necessary to be consistent with modern methods of construction. The board shall adopt reasonable rules and regulations for conducting its investigations and shall render all decisions and findings in writing to the building official with a duplicate copy to the appellant and may recommend to the city council such new legislation as is consistent therewith.

(e) Any person whose application for a building permit for the use of an alternate material or type of construction which has been refused by the building official or who may consider that the provisions of this building code do not cover the point raised, or that any particular provision causing manifest injury to be done, may appeal to the board of code standards and appeals by serving notice on the building official, which shall state that appellant desiring to use the alternate materials or types of construction shall guarantee

payments of all expenses and appeals. Such notice shall be at once transmitted to the board, which board shall arrange for a hearing on the particular point raised."

SECTION 2. Section 20.04.150 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"Records to be kept; appeals to board of code standards and appeals. The proceedings at informal hearings, as provided for in Section 20.04.120, including the findings and decision of the superintendent of central inspection or his designated representative, shall be reduced to writing, and entered as a matter of public record in the office of the superintendent of central inspection. The record shall also include a copy of every notice or order issued in connection with the matter. Appeals from the decision of the superintendent of central inspection or his designated representative may be made to the board of code standards and appeals by requesting in writing to the superintendent of central inspection, within ten days after receiving such decision, a hearing before the board. The appeal shall be heard, with three days' written notification as to time and place given such appellant, within fifteen days after receipt of written request."

SECTION 3. Section 20.04.160 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"Board of code standards and appeals. The board of code standards and appeals, in section 18.04.015 of this code, is designated as the successor of all powers and duties previously vested in the board of housing standards and appeals and all reference to such board in this code is deemed to be reference to the board of code standards and appeals. The board is constituted to act in an advisory capacity to the commission in the amending and revision of Chapter 20.04 of this code, to act as a board of appeals from the hearings conducted by the superintendent of central inspection in hearings as provided in Section 20.04.180 of this code.

The board shall consist of five members, who shall be appointed by the mayor with the approval of the city council. The terms of office shall be as set forth in Section 2.12.020(1). The appointments to this board shall reflect the following membership: a housewife, a citizen at large, a realtor, an insurance broker and a member of the Wichita association of home builders.

The board shall adopt reasonable procedures for conducting its meetings and investigations and shall render all decisions and findings in writing to the superintendent of central inspection with a duplicate copy to the appellant and as otherwise provided in Section 20.04.180 of this code. The board of code

standards and appeals, conducting hearings as provided in this chapter:

(a) Shall have the authority to administer oaths, affirmations, examine witnesses and receive evidence;

(b) Shall, in addition to receiving evidence from the superintendent of central inspection or his authorized representative, receive evidence from the health officer as to the health-related violations and the fire inspector as to fire safety-related violations;

(c) Shall consider the findings of the superintendent of central inspection, health officer and fire inspector as to facts, if supported by evidence, conclusive.

The rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the board.

In a hearing on an appeal from the superintendent of central inspection's hearings, the board may sustain, modify or withdraw the superintendent of central inspection's order, depending upon its finding as to whether the standards of this chapter have been complied with.

A variance to the standards of this chapter shall not be made by the board, except for a variance of the literal interpretation of a standard; provided, that such variance would result in compliance with the intent of the standard.

Provided further, that the board may make a variance to the standards of this chapter, based on a request and recommendation by the staff advisors from the divisions of central inspection, the county department of community health and the fire department for a specific situation and for a specified time, which may be extended.

The superintendent of central inspection, the health officer, the fire chief, local housing coordinator, director of planning, human resources development coordinator and the city attorney, or their designated representatives, may attend all board meetings and advise and consult with the board in matters pertaining to the enforcement of the housing code."

SECTION 4. The originals of Sections 18.04.015, 20.04.150, and 20.04.160 of the Code of the City of Wichita are hereby repealed.

SECTION 5. This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective upon its passage and publication once in the official city newspaper.

ADOPTED at Wichita, Kansas, this 8th day of AUG., 1989.



Bob Knight
Bob Knight, Mayor

ATTEST:

John Moir
John Moir, Director of Finance/
City Clerk

Approved as to Form:

Thomas R. Powell
Thomas R. Powell, Director of Law