

**BY-LAWS OF THE
LEAVENWORTH COUNTY BOARD OF BUILDING CODES APPEALS
ADOPTED**

ARTICLE I – NAME AND MEMBERSHIP

- 1.1 NAME - The name of this organization, established by a Board of County Commissioner motion January 27, 2021 shall be the Leavenworth County Board of Building Codes Appeals.
- 1.2 MEMBERSHIP - Membership of the Commission shall be as established by Resolution No. 2021-1 (see attached) of Leavenworth County, Kansas, which specifies the number, method of appointment, and term of office.

ARTICLE II – PURPOSE

- 2.1 BY-LAWS – The mission of this board is to timely hear and determine appeals by any building permit applicant who appeals the staff interpretation and application of building codes adopted by the county to that permit application.
- 2.2 BOARD OF BUILDING CODES APPEALS – That pursuant to the authority granted to the board by K.S.A. 19-101 et seq. there is hereby created a board of building codes appeals.

ARTICLE III – ORGANIZATION

- 3.1 MEMBERS – The board of building codes appeals shall consist of not less than five (5), nor more than seven (7) persons, residing in the county of Leavenworth, who have a background in the building trades or fire protection services deemed sufficient by the board of county commissioners. A quorum for the board of zoning appeals shall be not less than three (3) members.
- 3.2 CHAIRPERSON - The Chairperson shall preside at all meetings of the Board of Building Codes Appeals.
- 3.3 ACTING CHAIRPERSON – A temporary Chairperson shall act as Chairperson in the absence or abstention of the Chairperson.
- 3.4 SECRETARY - The Director of Planning and Zoning or their selected representative shall serve as Secretary to the Board of Building Codes Appeals.
- 3.5 SECRETARY - The Secretary shall prepare the agenda and the order of business for each meeting. The Secretary shall record the minutes of all meetings.
- 3.6 ATTENDANCE – That persons appointed to serve on the board of building codes appeals shall serve at the pleasure of the board and until they either resign or are removed with or without cause.

- 3.7 PLANNING OFFICE - The Planning office shall provide professional and technical assistance to the Board of Building Codes Appeals.
- 3.8 CUSTODIAN OF THE PLANNING RECORDS - The Planning office shall be the official custodial agency for minutes, records, files, and materials relating to Board of Building Codes Appeals business.

ARTICLE IV – MEETINGS

- 4.1 MEETINGS – The Board of Building Codes Appeals shall convene and meet at the request of either the Director of Planning and Zoning for the County, or their designee, or an applicant for a building permit, or their agent, aggrieved by the staff interpretation an application of the building codes adopted by the county. The Director of Planning and Zoning for the county shall prepare and keep available a form for the purpose of filing an appeal and shall keep and maintain the records of the board of building codes appeals. Members of the board may attend any meeting of that board telephonically and the board may conduct any meeting of the board by telephone.
- 4.2 MEETINGS – It shall be the duty of the members of the board of building codes appeals to convene and meet within five (5) business days of the request of either party identified in section (6) of this Order. The place and time of the meeting of the board of building codes appeals shall be set by the director of Planning and Zoning in conformity with the time constraints set forth in this Order and at a place convenient for the parties and members of the board.
- 4.3 AGENDA - Paper copies of the Agenda for all regular meetings shall be available to members of the board in a timely fashion.
- 4.4 QUORUM - A quorum shall consist of three (3) members. In the absence of a quorum, the members present shall reschedule the meeting for the following evening and absent members shall be notified by the Secretary by telephone, email, and wherever possible by personal notification.

ARTICLE V -- CONDUCT OF MEETINGS

- 5.1 PARLIAMENTARY AUTHORITY - Meetings shall be conducted according to these by-laws and generally accepted parliamentary procedure practices.
- 5.2 ADOPTED RULES OF PROCEDURE - The most recent set of rules adopted by the Mid America Regional Council (MARC) shall govern the parliamentary procedures in all cases if there is a question of procedure.
- 5.3 ORDER OF BUSINESS - The order of business shall be as follows:
- Call to Order
 - Roll Call

- Approval of Minutes
- Approval of Agenda
- Declarations of the receipt of communications
- Appeals requests
- Adjournment

- 5.4 REPRESENTATION BY THE APPLICANT - Applicants may appear to answer to the Board of Building Codes Appeals for their appeals request. If applicant is unable or does not wish to attend the meeting planning staff can present their request.
- 5.5 FEES – A Filing fee of fifteen (15) dollars shall be paid by any applicant wishing to bring an appeal the board of building codes appeals prior to the initiation of the appeals process. Such fees as are collected shall be used solely to compensate members of the board of building codes appeals for the reasonable expenses necessary for their service.
- 5.6 MOTIONS - The Chairperson shall restate motions in their entirety before a vote is taken.
- 5.7 VOTING - Voting on all items shall be by voice ballot, or by a show of hands if required by the Chairperson. Each member’s vote shall be recorded by the Secretary or his or her designee on the official voting sheet. After a vote is taken the Chairperson or the Secretary shall announce the votes cast in favor of the motion, in opposition to the motion, the number abstaining, and whether the motion passed or failed.
- 5.8 ABSTENTION - It is the duty of each member to vote on each issue, but that member may abstain under the following circumstances.
- 5.8.1 No member should vote on an issue in which he or she has a conflict of interest.
- 5.8.2 No member may vote on an issue when they feel they cannot offer the applicant a fair and impartial vote.
- 5.9 PHYSICAL PRESENCE - A member abstaining from a hearing must leave the room unless they are participating as a private citizen in opposition to a proposal. In no case may a board member participate in support of a proposal after abstaining from the hearing on that proposal. Board members are encouraged to announce which agenda items they plan to abstain from hearing at the beginning of the meeting.

- 5.10 RECORD OF PROCEEDINGS - The Secretary shall record the minutes of each meeting as a matter of public record.

ARTICLE VI -- CODE OF CONDUCT

- 6.1 PURPOSE - A Building Codes Appeals Member is expected to conduct themselves as a judicial officer or function in a “quasi judicial” manner when reviewing requests for appeals to the adopted building codes. Quasi-judicial conduct is above reproach and within the law. Quasi-judicial conduct demands that Board of Building Codes Appeals Members make decisions based on “procedural due process.” Procedural due process includes the following:
- 6.1.1 Appearance of fairness of the Member;
 - 6.1.2 Proper notice of the hearing when required;
 - 6.1.3 A proper hearing process;
 - 6.1.4 A complete record; and
 - 6.1.5 A decision that meets legal requirements and is based on the record.
- 6.2 EX-PARTE COMMUNICATIONS RESTRICTED - Private communications to individual or groups of Board of Building Codes Appeals Members that are not subject to the public review and the hearing process are ex-parte communications. Ex-parte communications are contrary to quasi-judicial conduct. The rules restricting ex-parte communications relate only to those items that require procedural due process by the Board of Building Codes Appeals Members in their quasi-judicial function.
- 6.3 EX-PARTE COMMUNICATIONS DEFINED - The ex-parte restriction shall apply to Items for which the Board of Building Codes Appeals Member’s decision will impact specific parties’ land use rights. For any item that meets this definition the Board of Building Codes Appeals Member’s shall not engage in ex-parte communications including, but not limited to, the receiving of additional materials, presentations, or solicitations from anyone other than the Planning & Zoning staff. Board of Building Codes Appeals Members who receive information in violation of this rule shall disclose the communication to the planning staff and the Board of Building Codes Appeals Members at the regular meeting.
- 6.4 DUTY TO AVOID EX-PARTE COMMUNICATIONS - Board of Building Codes Appeals Members shall make all reasonable efforts to terminate ex-parte communications and shall encourage individuals attempting to engage in ex-parte communications to submit information through the staff or during the public hearing process.
- 6.5 EX PARTE COMMUNICATIONS ALLOWED - Communications are not in violation of the ex-parte restriction if they do not pertain to specific sites or properties, and/or if they involve general planning, procedural, or policy issues.

- 6.6 DUTY TO DISCLOSE EX PARTE COMMUNICATIONS - Any ex-parte communications shall be disclosed at the regular meeting as part of the Communications section of the agenda. The Board of Building Codes Appeals Members receiving the communication shall disclose the full nature of the ex-parte communication including the identity of the individual making the communication.
- 6.7 REQUEST FOR ADDITIONAL INFORMATION BY BOARD OF BUILDING CODES APPEALS MEMBERS - The ex-parte restriction shall not preclude any member of the Board of Building Codes Appeals Members from requesting additional information from any (Applicant, Staff or third party) source to assist in deliberations. However, requests for information from anyone other than staff shall be made in writing and a copy of the request and the response will be forwarded to staff and made part of the public record for that Item.
- 6.8 EXEMPTION FROM EX-PARTE RESTRICTIONS - Ex-parte communications and the restrictions on this form of communication are not applicable to communications between two Board of Building Codes Appeals Members. Limitations on Member-to-member communications are covered under the Kansas Open Meetings Act.

ARTICLE VII – ETHICS

- 7.1 BOARD OF BUILDING CODES APPEALS MEMBER’S DUTY - Board of Building Codes Appeals Members are charged by the Board of County Commissioners to operate as a quasi-judicial commission to make decisions regarding the interpretation of the adopted building codes that are in the best interest of all the current and future inhabitants of Leavenworth County, Kansas.
- 7.2 BOARD OF BUILDING CODES APPEALS MEMBER’S CHARGE -As Board of Building Codes Appeals Members, all of us share in the goal of building better, safe, inclusive, clean, healthy, exciting, and efficient communities. We want the public to be aware of the principles by which we practice our decision-making authority in the quest of that goal. We sincerely hope that the public will respect the commitments we make to our fellow citizens and all other persons whose interests we affect. An ethical judgment often requires a conscientious balancing, based on the facts and context of a particular situation and on the precepts of a well-crafted code of ethics.
- 7.3 BOARD OF BUILDING CODES APPEALS MEMBER’S PROMISE - Our primary obligation is to serve the public interest and we, therefore, owe our allegiance to a conscientiously attained concept of the public interest that is formulated through continuous and open debate. We shall achieve high standards of personal and professional integrity, proficiency, and knowledge. To comply with our obligation to the public, we aspire to the following principles:
- 7.3.1 We shall always be conscious of the State and Federal Constitutional rights of others.

- 7.3.2 We shall have special concern for the long-range consequences of present actions.
- 7.3.3 We shall pay special attention to the interrelatedness of decisions.
- 7.3.4 We shall require timely, adequate, clear, and accurate information on building code issues from all affected persons and provide the same to all governmental decision makers.
- 7.3.4 We shall give people the opportunity to have a meaningful impact on the development of plans and programs that may affect them. Participation should be broad enough to include those who lack formal organization, education or political influence.
- 7.3.6 We shall avoid a conflict of interest or even the appearance of a conflict of interest in all of our encounters with the public.
- 7.3.7 We shall educate the public about building codes and their relevance to our everyday lives.
- 7.3.8 We shall not, as public officials accept from anyone other than Leavenworth County any compensation, commission, rebate, or other advantage that may be perceived as related to our public office.
- 7.3.9 We shall not use to our position to personal advantage, nor that of a subsequent client or employer.
- 7.3.10 We shall not disclose such confidential information obtained in the performance of our public duties except when (1) required by process of law, or (2) required to prevent a clear violation of law, or (3) required to prevent a substantial injury to the public.
- 7.3.11 We shall not fail to disclose our own personal interests or the interests of a client, or our employer when participating in the interpretation of the adopted building codes.

ARTICLE IIX -- AMENDMENTS

- 8.1 AMENDMENTS - These by-laws may be amended by a two-thirds vote of the Board of Building Code Appeals at any regular meeting, provided the members have been notified one (1) month in advance and the proposed amendment has been placed on the agenda.
- 8.2 Amendments are then forwarded to the BOARD OF COUNTY COMMISSIONERS for adoption by resolution.