

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF FORT WORTH, BEING ORDINANCE NO. 13896, AS AMENDED, CODIFIED AS APPENDIX “A” OF THE CODE OF THE CITY OF FORT WORTH, BY AMENDING CHAPTER 3 “REVIEW PROCEDURES”, TO AMEND ARTICLE 2 “ORDINANCE INTERPRETATION” IN ITS ENTIRETY TO REVISE THE PROCESS TO APPEAL AN ORDINANCE INTERPRETATION OF THE ZONING ADMINSTRATOR; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the Board of Adjustment has the authority under Section 211.009 of the Texas Local Government Code to hear and decide an appeal that alleges error in an order, requirement, decision, or determination made by an administrative official in the enforcement of the Zoning Ordinance; and

WHEREAS, it is advisable to revise the regulations relating to an appeal of an interpretation of an administrative official; and

WHEREAS, it is advisable to clarify the process to request an interpretation of the Zoning Ordinance by the City’s administrative official, the Zoning Administrative Official; the process to appeal the decision or determination of the Zoning Administrative Official of the interpretation, to the Board of Adjustment and process the Board of Adjustment will follow hearing the appeal;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FORT WORTH, TEXAS:

SECTION 1.

Article 2 “Ordinance Interpretation” of Chapter 3 “Review Procedures”, being Ordinance No. 13896, as amended, codified as Appendix “A” of the Code of the City of Fort Worth, is amended in its entirety to revise the process to appeal an ordinance interpretation of the zoning administrator, to read as follows:

Sec. 3.200. - Request for Interpretation.

- a. The Zoning Administrative Official. The Zoning Administrative Official shall be the Director of Planning and Development or a member of his/her staff as designated by the Director. The Zoning Administrative Official shall be the sole person with responsibility to render written decisions or determinations concerning the provisions of the Zoning Ordinance.

- b. Filing a Request for Interpretation. A request for official interpretation of any section of the City's Zoning Ordinance shall be in writing and filed with the Zoning Administrative Official. Each request shall list the applicable section(s) in the Zoning Ordinance, the specific property address, and a description of the issue on which the requestor is seeking an interpretation. The requestor shall provide additional information upon request of the Zoning Administration Official. The requestor shall have ten days to provide additional information as requested by the Zoning Administrative Official. If the information is not provided within the ten days, the request will be deemed withdrawn and no further action will be taken by the Zoning Administrative Official.

- c. Interpretation of the Zoning Administrative Official. The Zoning Administrative Official shall:
 - 1. Review and evaluate the request in light of the text of the Zoning Ordinance, the official zoning map, the comprehensive plan and other relevant information; and
 - 2. Consult with staff, as necessary, and may request additional information from City staff before rendering a decision; and
 - 3. Render an interpretation in writing and delivered to the requestor by depositing the same, properly addressed and postage paid, in the United States Mail.

- d. The decision of the Zoning Administrative Official shall be final unless timely appealed to the Board of Adjustment.

Sec. 3.201. Appeal of Interpretation by the Zoning Administrative Official.

- a. Appeal to Board of Adjustment. The requestor, any person aggrieved by the interpretation, or any officer, department, board or bureau of the City affected by the interpretation of the Zoning Administrative Official may appeal the interpretation to the Board of Adjustment. The appeal must be in writing, be filed with the Administrative Official and specifically allege the error in the decision or determination of the Zoning Administrative Official for the property in question. All such appeals to the Board of Adjustment must be made within 30 days from the date of the Zoning Administrative Official's written decision. A member of the Board of Adjustment may not bring an appeal under this section.

- b. Appeal Fee Required. Every appeal shall be accompanied by the appropriate filing fee as provided in the schedule of fees contained in Chapter 25 of the City Code. No fee shall be charged for requests filed upon recommendation of the Zoning Commission, City Plan Commission, or City Council. A separate fee shall be charged if the appeal contains

multiple interpretations by the Zoning Administrative Official or is for multiple property addresses unless all the properties are owned by the same person or entity and the interpretation involves the same provisions in the Zoning Ordinance. No refund shall be made under any circumstances except in the event the appeal is withdrawn prior to the mailing of the required written notification.

- c. Complete Appeal Request. No appeal shall be forwarded to the Board of Adjustment until the requirements of section 3.201.a, above are met and the filing fee is paid in full.
- d. Written notice. Written notice of an appeal of an interpretation by the Zoning Administrative Official shall be given to the requestor, the subject property owner(s) and owners of real property lying within 300 feet of the subject property or properties. Such notice shall be given not less than ten days before the date set for the Board of Adjustment hearing to all such owners who have rendered their property for city taxes, as the ownership appears on the last approved city tax roll. Such notice may be served by depositing the same, properly addressed and postage paid, in the United States Mail.
- e. Information to the Board of Adjustment. After an appeal is timely filed and the appropriate fees are paid in full, the Zoning Administrative Official shall provide the Board of Adjustment with a copy of the interpretation request, the decision or determination, and any documents regarding the matter that has been appealed.
- f. Appeal stays all proceedings. An appeal to the Board of Adjustment stays all enforcement proceedings involving the action appealed unless the Building Official certifies in writing to the Board of Adjustment and the Zoning Administrative Official facts supporting the Building Official's opinion that a stay would cause imminent peril to life or property.
- g. The Zoning Administrative Official shall schedule the appeal for a hearing before the Board of Adjustment within sixty (60) days of the date of the appeal application.

Sec. 3.202. - Board of Adjustment Action.

- a. Hearing. The Board of Adjustment shall hear and render a decision on the appeal within three regularly scheduled hearing dates of the initial hearing. Public notice of the hearing shall be as set forth in section 3.201.d, above. Interpretation procedure. In deciding an appeal regarding an interpretation of the Zoning Ordinance, the Board of Adjustment shall:
 - 1. Review and evaluate the request in light of the text of this Zoning Ordinance, the official zoning maps, the comprehensive plan and any other relevant information;
 - 2. Hear testimony from the Zoning Administrative Official regarding the interpretation;
 - 3. Hear testimony from the appellant and any other interested or aggrieved parties;
 - 4. Consult with City staff, as necessary; and

5. Render a decision either affirming or reversing an order, requirement, decision, or determination of the Zoning Administrative Official involving the interpretation of the zoning ordinance.
- b. Vote Required. A concurring vote of 75% of all the members of the Board of Adjustment is required to reverse a decision or determination of the Zoning Administrative Official.
- c. Similar Appeals. After a final decision is reached by the Board of Adjustment, no further request on the same or related issues may be considered by the Board for the subject property for two years from the date of the final decision.
- d. Appeal from Decision of Board. Any requestor or person aggrieved by the decision of the Board of Adjustment or any officer, department, board or bureau of the city affected by the decision of the Board of Adjustment may appeal by filing a petition for same in a court of competent jurisdiction, setting forth that such decision is illegal in whole or in part, and specifying the grounds for the alleged illegality. Such petition shall be filed with the court within ten (10) days from the day the Board renders its decisions.

Sec. 3.200. — REQUEST FOR INTERPRETATION.

~~A request for official interpretation of this zoning ordinance shall be filed with the board of adjustment in accordance with the board of adjustment's established rules of procedure.~~

Sec. 3.201. — FEE REQUIRED.

~~Every request shall be accompanied by the appropriate filing fee as provided in the schedule of fees and charges contained in Chapter 2 of the City Code. No fee shall be charged for request filed upon recommendation of the zoning commission, plan commission, board of adjustment or city council.~~

Sec. 3.202. — NOTICE.

~~(a) *Written notice.* Written notice of all appeals seeking an interpretation of the zoning ordinance concerning a specific property shall be given to owners of real property lying within 300 feet of the subject property. Such notice shall be given not less than ten days before the date set for the hearing to all such owners who have rendered their property for city taxes, as the ownership appears on the last approved city tax roll. Such notice may be served by depositing the same, properly addressed and postage paid, in the United States mail. When property lying within 300 feet of the subject property is located in territory which was annexed to the city after the final date for making the renditions which are included on the last approved city tax roll, at least 15 days' notice of the time and place of the public hearing shall be published in an official newspaper or a paper of general circulation in the city.~~



~~Notice Procedure~~

~~(b) *Published notice.* Public notice of all appeals seeking an interpretation of the zoning ordinance, which interpretation would apply throughout the city, shall be given by means of a legal advertisement appearing in the official newspaper or a paper of general circulation not less than ten days before the hearing. The notice shall identify the applicant, the nature of the question, and the affected provisions of the zoning ordinance.~~

~~Sec. 3.203 BOARD OF ADJUSTMENT ACTION.~~

~~(a) *Interpretation procedure.* In making an interpretation of this zoning ordinance, the board of adjustment shall:~~

- ~~— (1) *Review and evaluate the request in light of the text of this zoning ordinance, the official zoning maps, the comprehensive plan and any other relevant information;*~~
- ~~— (2) *Consult with city staff, as necessary; and*~~
- ~~— (3) *Render a decision.*~~

~~(b) *Guidelines for future action.* In reaching its decision, the board of adjustment shall establish firm guidelines for future administrative actions on like matters.
(Ord. 13896, passed 10-12-1999)~~

~~Sec. 3.204 APPEAL.~~

~~— Any person aggrieved by any decision of the board of adjustment may present to a court of record a petition duly verified, setting forth that such decision is illegal, in whole or in part, and specifying the grounds of such illegality. The petition shall be presented to the court within ten days after the filing of the decision in the planning and development department in accordance with the procedures in Tex. Local Government Code § 211.011, as amended.~~

SECTION 2.

This ordinance shall be cumulative of all other ordinances of the Code of the City of Fort Worth, Texas (1986), as amended, affecting zoning and shall not repeal any of the provisions of such ordinances, except in those instances where provisions of such ordinance are in direct conflict with the provisions of this ordinance.

SECTION 3.

That all rights or remedies of the City of Fort Worth, Texas, are expressly saved as to any and all violations of Ordinance Nos. 3011, 13896, or any amendments thereto that have accrued at the time of the effective date of this ordinance; and as to such accrued violations, and all pending litigation, both civil or criminal, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

SECTION 4.

That it is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared void, ineffective or unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such voidness, ineffectiveness or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance, since the same would have been enacted by the City Council without the incorporation herein of any such void, ineffective or unconstitutional phrase, clause, sentence, paragraph or section.

SECTION 5.

That any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this ordinance shall be

fined not more than Two Thousand Dollars (\$2000.00) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

SECTION 6.

That the City Secretary of the City of Fort Worth, Texas is hereby directed to publish this ordinance for two (2) days in the official newspaper of the City of Fort Worth, Texas, as authorized by Section 52.013, Texas Local Government Code.

SECTION 7.

This ordinance shall take effect after adoption and publication as required by law.

APPROVED AS TO FORM AND LEGALITY:

By: _____

Assistant City Attorney

Mary Kayser

Adopted: _____

City Secretary

Effective: _____