

ORDINANCE NO. 1000

AMENDING AND/OR ADOPTING THE FOLLOWING ARTICLES AND SECTIONS OF THE WESTWOOD ZONING ORDINANCE WHICH IS INCORPORATED BY REFERENCE WITHIN THE WESTWOOD CITY CODE BY CHAPTER 16, AS AMENDED BY ORDINANCE 960, SECTIONS 2.3.610, 2.3.622, AND SECTION 4.5

WHEREAS, on March 4, 2019, the Planning Commission of the City of Westwood conducted a public hearing to consider amendments to the Zoning Ordinance of the City of Westwood;

WHEREAS, following the public hearing by the Planning Commission on March 4, 2019, the Planning Commission provided a unanimous recommendation to the governing body that the following Articles and Sections of the City's Zoning Ordinance be amended or adopted as hereinafter provided: Chapter 16, Article 2, Sections 2.3.610, adding a new Section 2.3.622, and adding new Article 4, Section 4.5;

WHEREAS, said Planning Commission has recommended that said amendments to the zoning ordinance of the City of Westwood, Kansas, be approved;

WHEREAS, the Governing Body has determined to accept the recommendation of the Planning Commission and has determined to amend the Zoning Ordinance of the City as hereinafter provided;

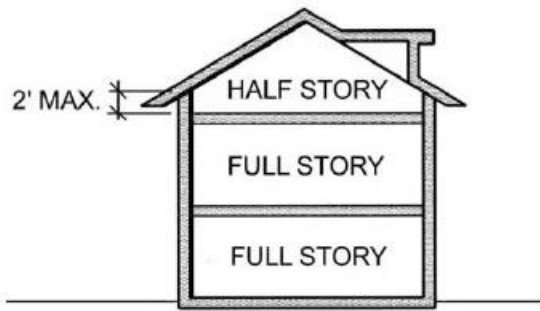
NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WESTWOOD, KANSAS:

SECTION ONE: That the zoning ordinance, Section 2.3.610 of Chapter 16 of the Code of the City of Westwood, Kansas, be repealed and replaced in its entirety as follows:

2.3.610 Story: that portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that habitable portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. An attic, regardless of its interior dimensions, shall not be considered a story provided it remains unconditioned space, is accessible by nothing more substantial than a pull-down stairway or ladder, and contains no dormers with the exception of minimal vent features. Determination of a building's number of stories shall be based on qualifying floor area being situated directly above other qualifying floor area.

SECTION TWO: That the zoning ordinance, Section 2.3.622 of Chapter 16 of the Code of the City of Westwood, Kansas, be Ordinance is hereby amended to read as follows:

2.3.622 Story, Half: A partial story located above a full story and underneath a sloping roof, where the roof planes intersect two opposite exterior walls at a height of no more than 2 ft. above the half-story floor level, and window dormers or other projections out from this roof plane do not exceed more than 50% of the horizontal length of the roof for a 2 ½ level, or 85% of the horizontal length of the roof for a 1 ½ story level, measured along both opposite roof planes at 2 ft. above the half-story floor level or higher.



SECTION THREE: That the zoning ordinance, Section 4.5 of Chapter 16 of the Code of the City of Westwood, Kansas, be Ordinance is hereby amended to read as follows:

4.5 Waivers & Exceptions

A. Purpose

This section creates a flexible, streamlined process where applicants can seek exceptions from the specific rules in this title where granting the waiver or exception would result in superior design, and the consideration of a variance request by the Board of Zoning Appeals is not suitable or proper in the circumstances.

B. Applicability

This section applies to a request for a waiver or exception from the building design or site development standards of only the following Sections: **4.3.2 Single-Family Primary Structure Requirements; 4.3.6 Garages; 4.3.7 Building Standards; 4.3.8 Building Additions – Special Conditions; and 4.4 New Infill Houses – Special Considerations.**

C. Initiation

Exceptions shall be requested at the time of filing a building permit. Consideration of a request for an exception shall require a Public Hearing before the Planning Commission following public notice as provided in **Section 1.6.8** through **1.6.11**.

D. Approval Criteria

A waiver or exception shall not be approved if it is contrary to the public interest or unnecessarily burdens the City. The Approving Authority may approve the waiver or exception if the applicant demonstrates one (1) or more of the following:

1. An alternative higher quality development design is being proposed with no negative impacts to either near-by residential or nonresidential properties.
2. Relief of the development restrictions imposed on the property will ensure low impact land uses, and quality building and site design arrangements in which adjoining residential properties will not be negatively impacted by any deviations from the applicable regulations.
3. The granting of the waiver or exception will not be opposed the general spirit and intent of the adopted Comprehensive Plan.

E. Decision

1. The Planning Commission may approve, approve with conditions, or deny any requests for an exception or wavier.
2. The Planning Commission's decision may be appealed by the applicant only, to the Governing Body. In that case, the Governing Body can approve, approve with conditions, or deny the waiver request.

F. Scope of Approval

The waiver or exception is a condition of the underlying application for approval, and has the same effect as any approval of that application. In such instances, findings shall be prepared that:

1. No private rights will be injured or endangered by granting of the waiver or exception.
2. The public will suffer no loss or inconvenience thereby and that in justice to the applicant or applicants the application should be granted.

G. Recordkeeping

The Building Official will maintain a record of approved waivers and exceptions.

SECTION FOUR: All other ordinances of said City in conflict herewith are hereby amended to conform to the provision of this Ordinance.

SECTION FIVE: This ordinance shall take effect and be in force from and after its adoption and publication as required by law.

PASSED AND APPROVED on this 14th day of March, 2019



ATTEST:

Frederick L. Sherman, City Clerk

John M. Ye, Mayor

APPROVED AS TO FORM:

Ryan B. Denk, City Attorney