

## ORDINANCE NO.751

### AN ORDINANCE ADDING CERTAIN PROVISIONS RELATED TO THE GRANTING OF EXCEPTIONS PURSUANT TO THE ZONING REGULATIONS OF THE CITY OF OGDEN KANSAS.

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

**SECTION 1. AMENDMENT.** That the Zoning Regulation of the City of Ogden, Kansas, are hereby amended by adding Section 18-504, which shall read as follows:

**18-504. Review Criteria for Exceptions.** The Board of Zoning Appeals (BZA) may not grant exceptions unless it makes specific, written findings of fact, based upon the particular evidence presented, that all of the following standards have been met:

1. The property complies with all applicable requirements of the Zoning Regulations, other than the exceptions being requested.
2. The proposed exceptions will not cause a substantial adverse effect on nearby properties.
3. The exceptions will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare.
4. The strict application of the Zoning Regulations is unreasonable or unnecessary when all facts and circumstances are considered. In determining this standard, the BZA must weigh all facts and circumstances, and place whatever emphasis and relevance it deems to be appropriate on each factor. Examples of such facts and circumstances to be considered include whether or not:
  - a. Conditions of the property requiring the exception were created by the applicant with prior knowledge and disregard of applicable regulations.
  - b. The applicant acquired the property with knowledge of the conditions that prompt the exception, and whether or not the consideration for the acquisition took into account such conditions.
  - c. There are reasonable alternatives that would allow the property to meet the strict application of the Zoning Regulations.
  - d. Granting of the exception will result in a relative gain to the health, safety, and general welfare of the community.
  - e. The exception will aid in preserving and/or increasing the viability of a designated historic structure, site, or district and/or its historic use.

**SECTION 2. AMENDMENT.** That the Zoning Regulation of the City of Ogden, Kansas, are hereby amended by adding Section 18-505, which shall read as follows:

**18-505.** Scope of Approval; Period of validity.

1. In granting exceptions, the BZA may impose written conditions, safeguards, and restrictions upon the property benefitted by the exception, in order to fulfill the purposes of the Zoning Regulations. Failure to comply with such conditions, safeguards, or restrictions shall constitute a violation of the Zoning Regulations.
2. Exceptions granted by the BZA are valid for a period of 180 days from the date the BZA granted the exceptions. The exceptions lapse unless within the 180-day period:
  - a. A building permit is obtained and the construction, moving, or remodeling of a structure is started; or
  - b. A use is commenced or continued pursuant to the exceptions.

**SECTION 3. EFFECTIVE DATE; PUBLICATION.** This ordinance shall take effect and be in force from and after its publication in the official city newspaper.

**PASSED AND APPROVED** by the Governing Body of the City of Ogden, Riley County, Kansas, this 20th day of July, 2022.



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**ROBERT PENCE, Mayor**

**ATTEST:**



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**David Ward, City Clerk**