

## ARTICLE O

### Appeals

#### SEC. 13-1-190 APPEALS TO THE ZONING BOARD OF APPEALS.

- (a) **Scope of Appeals.** Appeals to the Board of Appeals may be taken by any person aggrieved or by any officer, department, board or bureau of the City affected by any decision of the administrative officer. Such appeal shall be taken within reasonable thirty (30) days of the alleged grievance or judgment in question by filing with the officer(s) from whom the appeal is taken and with the Board of Appeals a notice of appeal specifying the grounds thereof, together with payment of a filing fee as may be established by the Common Council. The officer(s) from whom the appeal is taken shall forthwith transmit to the Board of Appeals all papers constituting the record of appeals upon which the action appeals from was taken.
- (b) **Stay of Proceedings.** An appeal shall stay all legal proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certified to the Board of Appeals that, by reason of facts stated in the certificate, a stay would, in his opinion, cause immediate peril to life or property. In such cases, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Appeals or by a court of record on application, on notice to the officer from whom the appeal is taken and on due cause shown.
- (c) **Meetings.**
- (1) Open to Public. All meetings and hearings of the Board of Appeals shall be open to the public, except that the Board may go into executive session to deliberate after a hearing or an appeal. The final vote on an appeal shall be taken in open session by roll call vote, recorded and open for public inspection in the Board's office. Public notice of all regular and special meetings shall be given to the public and news media as required by the Wisconsin Open Meeting Law.
  - (2) Special Meetings. Special meetings may be called by the Chairman or by the Secretary of the Board of Appeals at the request of two (2) members. Notice of a special meeting shall be mailed to each member at least forty-eight (48) hours prior to the time set for the meeting or announcement of the meeting shall be made at any meeting at which all members are present.
  - (3) Hearings. Hearings may be held at any regular or special meeting at the time set by the Chairman.
  - (4) Quorum. A quorum for any meeting or hearing shall consist of four (4) members, but a lesser number may meet and adjourn to a specified time.
- (d) **Powers of Zoning Board of Appeals.** In addition to these powers enumerated elsewhere in this Code of Ordinances, the Board of Appeals shall have the following powers:
- (1) Errors. To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the Zoning Administrator, Building Inspector or other administrative official in the enforcement of the Zoning Code or any ordinance adopted under Sections 61.35, 62.23, 62.231 (wetlands), 87.30 or 144.26 (flood plains) or Chapter 91 (farmland preservation), Wis. Stats.

- (2) Variances. To hear and grant appeals for variances as will not be contrary to the public interest where, owing to practical difficulty or unnecessary hardship, so that the spirit and purposes of this Chapter shall be observed and the public safety, welfare and justice secured.
  - (3) Interpretations. To hear and decide application for interpretations of the zoning regulations and the boundaries of the zoning districts after the Plan Commission has made a review and recommendation.
  - (4) Substitutions. To hear and grant applications for substitution of more restrictive nonconforming uses for existing nonconforming uses provided no structural alterations are to be made and the Plan Commission has made a review and recommendation. Whenever the Board permits such a substitution, the use may not thereafter be changed without application.
  - (5) Unclassified Uses. To hear and grant applications for unclassified and unspecified uses provided that such uses are similar in character to the principal uses permitted in the district and the Plan Commission has made a review and recommendation.
  - (6) Temporary Uses. To hear and grant applications for temporary uses, in any district provided that such uses are of a temporary nature, do not involve the erection of a substantial structure and are compatible with the neighboring uses and the Plan Commission has made a review and recommendation. The permit shall be temporary, revocable, subject to any condition required by the Board of Zoning Appeals and shall be issued for a period not to exceed twelve (12) months. Compliance with all other provisions of this Chapter shall be required.
- (e) **Board Action.** In exercising the powers under Subsection (d), the Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as ought to be made and, to that end, shall have all the powers of the officer from whom the appeal is taken, and may issue or direct the issuance of a permit.
- (f) **Voting.**
- (1) Personal Interest. No Board of Appeals member shall participate in the decision of or vote upon any case in which the member is financially interested, directly or indirectly, but the Chairman shall direct an alternate member to act instead. Disqualification of a member for interest shall not decrease the number of votes required for acting upon any matter, but such member may be counted in determining whether a quorum is present for the transaction of business.
  - (2) Record of Vote. The Secretary shall record the vote of each member on every question in the minutes or, if the member is absent or fails to vote, shall indicate such fact in the record of the proceedings.