

SECTION 26

BOARD OF ADJUSTMENT

26-1 The word "Board" when used in this section shall be construed to mean the Board of Adjustment and the Administration Official shall mean the Building Inspector of the city. (Ord. 110)

26-2 Organization and Procedure:

- (1) Establishment: A Board of Adjustment is hereby established in accordance with the provisions of Article 211.008, Local Government Code, regarding the zoning of cities and with the powers and duties as provided in said Code.
- (2) Membership: Pursuant to Article 211.008(g) the members of the City Council shall have the authority to act as the Board of Adjustment until such time as the Council shall appoint a separate Board of Adjustment. If a separate board is so appointed the Board shall consist of five citizens, each to be appointed or re-appointed by the City Council for staggered terms of two years. Each member of the Board shall be removable for cause by City Council upon written charges and after a public hearing. Vacancies shall be filled by the City Council for the unexpired term of any member whose office becomes vacant. Each year after the appointment of new members to the board, the Board shall elect from among its regular members a Chairman and a Vice Chairman who will act in the absence of the Chairman. The City Council may appoint two (2) alternate members of the Board who shall serve in the absence of one or more regular members when requested to do so by the Mayor or Chairman. An alternate member serves for the same period as a regular member and is subject to removal in the same manner as a regular member. A vacancy among the alternate members is filled in the same manner as a vacancy among the regular members. (Ord. 110)
- (3) Rules and Regulations: The Board shall adopt rules in accordance with this ordinance and keep minutes of its proceedings that indicate the vote of each member on each question or the fact that a member is absent or fails to vote. The Board shall keep records of its examinations and other official actions. The minutes and records shall be filed in the boards office and are public records and all meetings shall be open to the public. (Ord. 110)
- (4) Meeting: Meetings of the Board shall be held at the call of the Chairman and at such other times as determined by the Board. All meetings shall be open to the public. The chairman or acting chairman may administer oaths and compel the attendance of witnesses. (Ord. 110)

- (5) Each case before the Board must be heard by at least four members. (Ord. 110)

26-3

AUTHORITY OF BOARD

The Board Of Adjustment has the following authority:

- (1) 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 this ordinance. In exercising the authority under this subsection, the board may reverse or affirm, in whole or in part, or modify the administrative official's order, requirement, decision, or determination from which an appeal is taken and make the correct order, requirement, decision, or determination, and for that purpose the board has the same authority as the administrative official. (Ord. 110)
- (2) To hear and decide special exceptions to the terms this zoning ordinance when this ordinance requires the board to do so. In this regard the Board may grant only special exceptions that are authorized to be granted by the terms of this ordinance. (Ord. 110)
- (3) To authorize in specific cases a variance from the terms of this zoning ordinance if the variance is not contrary to the public interest and, due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship, and so that the spirit of the ordinance is observed and substantial justice is done. (Ord. 110)
- (4) To hear and decide other matters authorized by an ordinance of the City. (Ord. 110)
- (5) To subpoena witnesses, administer oaths, and may require the production of documents. (Ord. 110)

26-4

The concurring vote of four members of the board is necessary to:

- (1) Reverse an order, requirement, decision, or determination of an administrative official. (Ord. 110)
- (2) Decide in favor of an applicant on a matter on which the board is required to pass under a zoning ordinance. (Ord. 110)
- (3) Authorize a variance from the terms of the zoning ordinance. (Ord. 110)

26-5

Appeal to Board

- (1) Any of the following persons may appeal to the board of adjustment a decision made by an administrative official:
 - a. a person aggrieved by the decision; or
 - b. any officer, department, board, or bureau of the municipality affected by the decision. (Ord. 110)
- (2) The appellant must file with the board and the official from whom the appeal is taken a notice of appeal specifying the grounds for the appeal. The appeal must be filed within a reasonable time as determined by the rules of the board. On receiving the notice, the official from whom the appeal is taken shall immediately transmit to the board all the papers constituting the record of the action that is appealed. (Ord. 110)
- (3) An appeal stays all proceedings in furtherance of the action that is appealed unless the official from whom the appeal is taken certifies in writing to the board facts supporting the official's opinion that a stay would cause imminent peril to life or property. In that case, the proceedings may be stayed only by a restraining order granted by the board or a court of record on application, after notice to the official, if due cause is shown. (Ord. 110)
- (4) The board shall set a reasonable time for the appeal hearing and shall give public notice of the hearing and due notice to the parties in interest. A party may appear at the appeal hearing in person or by agent or attorney. The board shall decide the appeal within a reasonable time. (Ord. 110)