

20.08.000

APPEAL PROVISIONS

20.08.010 APPEAL RIGHTS. Any person aggrieved or any officer, department, board or bureau of the City affected by a decision of the administrative officer or of the Plan Commission may appeal such decision to a Board of Appeals as hereinafter established, provided such appeal to be taken within a reasonable time, as provided by the rules of said Board of Appeals.

A. Filing Fee – Any appeal to the Board of Appeals shall be accompanied by a filing fee.

20.08.020 BOARD OF APPEALS.

A. Establishment. There shall be a Board of Appeals consisting of 5 members appointed by the Mayor subject to confirmation by the Common Council, for terms of 3 years, except that of those members first appointed one shall serve for 1 year, two for 2 years and two for 3 years. Vacancies shall be filled for the unexpired terms of members whose terms become vacant. The Mayor shall appoint, for staggered terms of 3 years, 2 alternate members of such board, in addition to the 5 members above provided for. Annually, the Mayor shall designate one of the alternate members as 1st alternate and the other as 2nd alternate. The 1st alternate shall act, with full power, only when a member of the Board refuses to vote because of interest or when a member is absent. The 2nd alternate shall so act only when the 1st alternate so refuses or is absent or when more than one member of the board so refuses or is absent. The above provisions, with regard to removal and the filling of vacancies, shall apply to such alternates.

B. General Rules.

1. The members of the Board of Appeals shall serve at such compensation as is fixed by the Ordinance.
2. Members shall be removable by the Mayor for cause upon written charges and after public hearing.
3. The Mayor shall designate one of the members, Chairman and the Board of Appeals may designate such other officers and employ such employees as it feels necessary.
4. The Board of Appeals shall adopt rules governing its procedure consistent with the terms of this Ordinance.

C. Meetings. Meetings of the Board shall be held at the call of the Chairman and at other times as the Board may determine. Such Chairman, or in his absence the Acting Chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and

other official action, all of which shall be immediately filed in the office of the Board and shall be a public record.

- D. Powers. The Board of Appeals shall have the following powers as defined by statute.
1. To hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by an administrative official in the enforcement of this Ordinance.
 2. To hear and decide special exceptions to the terms of this Ordinance upon which such Board is required to pass under the Ordinance.
 3. To authorize upon appeal in specific cases such variances from the terms of this Ordinance as will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of this Ordinance will result in practical difficulty or unnecessary hardship, so that the spirit of this Ordinance shall be observed, public safety and welfare secured, and substantial justice done.
- E. Additional Requirements. In making its determination, the Board shall consider whether the proposed exception or variance would result in the use being hazardous, harmful, noxious, offensive or a nuisance to the surrounding neighborhood by reason of physical, social or economic effects; and may impose such requirements and conditions with respect to location, construction, and maintenance and operation – in addition to any which may be stipulated in this Ordinance – as the Board may deem necessary for the protection of adjacent properties and the public interest and welfare.
- F. Performance Standards. In order to reach a fair and objective decision, the Board may utilize and give recognition to appropriate performance standards which are available in model codes or ordinances or which have been developed by planning, manufacturing, health, architectural, and engineering research organizations.
- G. Enforcement of Decisions. In exercising the above mentioned powers, such Board may, in conformity with the provisions of this Ordinance, reverse or affirm, wholly or partly, or may modify the order, requirements, 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 provided that no such action shall have the effect of permitting in any district a use prohibited in that district; of rezoning; or granting a conditional use or special exception where such grant is not specifically assigned to the Board for determination under this Ordinance; or of permitting, without the approval of the Plan Commission any building within the base setback area as hereinafter established by the provisions of this Ordinance.
- H. Required Vote. The concurring vote of 4 members of the Board shall be necessary to reverse any order, requirement, decision or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required

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to pass under this Ordinance, or to effect any variation there from. The grounds of every such determination shall be stated.

1. Further Appeal. Any person or persons aggrieved by any decision of the Board of Appeals, or any taxpayer, or any officer, department, board or bureau of the City may appeal from a decision of the Board of Appeals within 30 days after the filing of the decision in the office of the Board of Appeals in the manner provided in Section 62.23 (7) of the Wisconsin Statutes.

20.08.030 PROCEDURE

- A. Filing. A notice of appeal shall be filed with the officer from whom the appeal is taken and with the Board of Appeals, specifying the grounds thereof. The officer, from whom the appeal is taken, shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken.
- B. Stay. An appeal shall stay all legal proceedings in furtherance of action appealed from, unless the officer from whom the appeal is taken certifies to the Board of Appeals after the notice of appeal, shall have been filed with him, that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property. In such cases, proceedings shall not be stayed otherwise than by restraining order which may be granted by the Board of Appeals or by a court of record on application, on notice to the office from whom the appeal is taken, and on due cause shown.
- C. Hearing. Each appeal shall be heard within 40 days from the time of filing and public notice of such hearing shall be given as provided by Section 20.07.000 of this Ordinance as well as to the parties of interest except that such notice to other owners need not include the owners of any lands beyond those adjacent to the sides and rear of the property petitioning for appeal and directly opposite thereto and extending 100 feet from the street frontage of such opposite land. The City Administrator shall mail such notice at least 7 days before said hearing. Such notice however shall require only one publication in the newspaper of general circulation within said City which shall not be less than 3 days prior to the date of hearing. Any party may appear in person, or by agent or by attorney representing him.
- D. Decision. The Board of Appeals shall render its decision in writing within 15 days after completion of the hearing thereon.
- E. Special Exceptions. Requests for special exceptions upon which the Board of Appeals is required to pass under the provisions of this Ordinance shall be presented by petition and public hearing held thereon as provided for appeals.