

## **ARTICLE XVII**

### **BOARD OF ADJUSTMENT**

- (1) There is hereby created a board of adjustment consisting of five (5) members, each to be appointed by a majority of the city council for a term of two (2) years and removable for cause by the appointing authority. Vacancies shall be filled by the appointment by the original appointing authority of a suitable person to serve out the unexpired term of any member whose place on the board has become vacant for any cause.

The board is hereby vested with power and authority, in appropriate cases and subject to appropriate conditions and safeguards, to make such exceptions to the terms of this ordinance in harmony with its general purpose and intent and in accordance with general or special rules therein contained for the purpose of rendering full justice and equity to the general public. The board may adopt rules to govern its proceedings; provided, however, that such rules are not inconsistent with this ordinance. Meetings of the board shall be held at the call of the chairman, who may administer oath 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 indicate such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the board and shall be a public record.

- (2) Appeals to the board of adjustment can be taken by any persons aggrieved or by any officer, department, board or department of municipality affected or any decision of the administrative office. Such appeals shall be taken within fifteen (15) days' time after the decision has been rendered by the administrative office, by filing with the officer from whom the appeal is taken and with the board of adjustment, a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the board all papers constituting the record upon which the action appealed from was taken. An action appealed from shall stay all proceedings upon the action appealed, unless the officer from whom the appeal is taken certifies to the board of adjustment, 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 case, proceedings shall not be stayed, otherwise than by a restraining order which may be granted by the board of adjustment or by a court of record or application on notice to the officer from whom the appeal is taken and on due cause shown.

The board of adjustment shall fix a reasonable time for the hearing of an appeal, give the public notice thereof, as well as due notice to the parties in interest and decide the same within a reasonable time. Upon the hearing any party may appear in person or by attorney or by agent.

- (3) The board of adjustment shall have the following powers: To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this ordinance. To hear and decide special exceptions to the terms of the ordinance upon which the board is required to pass under this ordinance. To authorize upon appeal in special cases, such variances from the terms of the ordinance as will not be contrary to the public interest, where, owing to special conditions, the literal enforcement of the provisions of the ordinance will result in unnecessary hardship, and so that the spirit of this ordinance shall be observed and substantial justice done.
- (4) In exercising its powers, the board may, in conformity with the provisions of article 1011-A and including 1011-J of the 1925 Civil Statutes of Texas, revise or reform, wholly or partly, or may modify the order, requirement, decision or determination as ought to be made and shall have all the powers of the officer from whom the appeal is taken.
- (5) The concurring vote of four (4) members of the board shall be necessary to revise any order, requirements, decision or determination of any such administration official, or to decide in favor of the application on any matter upon which it is required to pass under this ordinance or to affect any variance in said ordinance.
- (6) Any person or persons, jointly or severally aggrieved by any decision of the board of adjustment or any taxpayer or any officer, department, or board of the municipality may present to a court of record a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within ten (10) days after the filing of the decision in the office of the board and not thereafter.