

***DIVISION 14. BOARD OF ADJUSTMENT<sup>1</sup>***

**Sec. 2-250.21. The creation; appointments; memberships.**

- (a) There is hereby created a board of adjustment consisting of five members, each to be appointed by the mayor, and subject to confirmation by the city council for a term of two years and removable for cause by the appointing authority upon written charges and after public hearing.
- (b) Vacancies shall be filled for the unexpired term of any member whose place becomes vacant for any cause in the same manner as the original appointment was made.
- (c) Appointment of members.
  - (1) Two members heretofore appointed shall serve for one year or until his successor is appointed, and
  - (2) Three members, as heretofore appointed, shall serve for two years or until their successors are appointed, and
  - (3) Thereafter, each member reappointed or each new appointee shall serve for a full term of two years unless removed as hereinabove provided.
  - (4) The mayor and city council may appoint three alternate members of the zoning board of adjustment who shall serve in the absence of one of the regular members when requested to by the mayor or city manager, as the case may be so that all cases to be heard by the board of adjustment will always be heard by a minimum number of the four members.
  - (5) The alternate member, when appointed, shall serve for the same period as the regular members, which is for a term of two years, and any vacancy shall be filled in the same manner, and he shall be subject to removal in the same manner as the regular members.

( Ord. No. O-18-21 , § 1, 1-25-2021)

**Sec. 2-250.22. Meetings, officers, and rules.**

- (a) The board shall adopt rules to govern its proceedings, provided, however, that such rules are not inconsistent with the ordinance or statutes of the State of Texas.
- (b) Meetings of the board shall be held at the call of the chairman and at such other times as the board may determine.
- (c) The chairman, or in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses.
- (d) All meetings of the board shall be open to the public.

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<sup>1</sup>Editor's note(s)—Sec. 1 of Ord. No. O-18-21 , adopted January 25, 2021, amended div. 14 to read as herein set out. Former div. 14 pertained to the same subject matter, and derived from Ord. No. O-20-20 , adopted September 4, 2020.

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- (e) 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 which shall be immediately filed in the office of the board and shall be a public record.

( Ord. No. O-18-21 , § 1, 1-25-2021)

### **Sec. 2-250.23. Responsibilities.**

The zoning board of adjustment, when in its judgment, the public convenience and welfare will be substantially served, and the appropriate use of the neighboring property will not be substantially or permanently injured, after public notice and public hearing, and subject to appropriate conditions and safeguards, may:

- (a) 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 subchapter or an ordinance adopted under this subchapter;
- (b) Hear and decide special exceptions to the terms of a zoning ordinance when the ordinance requires the board to do so;
- (c) Authorize in specific cases a variance from the terms of a 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;
- (d) Permit the reconstruction, extension, or enlargement of a building occupied by a nonconforming use on the lot or tract occupied by such building, provided such reconstruction does not prevent the return of such property to a conforming use and permit the expansion of off-street parking or off-street loading for a nonconforming use;
- (e) Permit such modifications of the height, yard, area coverage, and parking regulations as may be necessary to secure appropriate development of a parcel of land which differs from other parcels in the district by being such restricted area, shape, or slope that it cannot be appropriately developed without such modification; and
- (f) Require the discontinuance of nonconforming uses of land or structure under any plan whereby the full value of the structure and facilities can be amortized within a definite period of time, taking into consideration the general character of the neighborhood and the necessity for all property to conform to the regulations of this ordinance [division].
  - (1) All actions to discontinue a nonconforming use of land and structure shall be taken with due regard for the property rights of the persons affected when considered in the light of the public welfare and the character of the area surrounding the designated nonconforming use and preservation of property.
  - (2) The board shall, from time to time, on its own motion or upon cause presented by interested property owners, inquire into the existence, continuation, or maintenance of any nonconforming use within the city.

( Ord. No. O-18-21 , § 1, 1-25-2021)

### **Sec. 2-250.24. Status of zoning board of adjustment action; judicial review.**

- (a) The concurring vote of four members of the board is necessary to:
  - (1) Reverse an order, requirement, decision, or determination of an administrative official;

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- (2) Decide in favor of an applicant on a matter on which the board is required to pass under a zoning ordinance;
  - (3) Authorize a variation from the terms of a zoning ordinance.
- (b) In exercising its powers, the board may, in conformity with the provisions of V.T.C.A., Local Government Code § 211.001 et seq., as amended, revise or reform, wholly or partly, or may modify the order, requirement, decisions, or determination as ought to be made and shall have all the powers of the officer from whom the appeal is taken including the power to impose reasonable conditions to be complied with by the applicant.
  - (c) 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 (district court) a petition, duly verified, setting forth that such decision is illegal, in whole or part, specifying the grounds of the illegality. Such petition shall be presented to the court within ten days after the filing of the decision in the office of the board of adjustment (date of the decision letter sent to the applicant by municipal staff) and not thereafter.

( Ord. No. O-18-21 , § 1, 1-25-2021)

**Secs. 2-250.25—2.250.30. Reserved.**