

## CHAPTER 147 - Board of Zoning and Building Appeals<sup>[18]</sup>

[\(see notes on Current Rules to bring to Code\)](#)

### 147.01 - JURISDICTION.

The Board of Zoning and Building Appeals (hereinafter "Board") shall have the powers and duties as prescribed by ~~Article XII of~~ the City Charter, and any other duties prescribed by state law or City ordinance, which are not in conflict with the City Charter. (Ord. 0179-2002. Passed 10-7-02.)

### 147.02 - ORGANIZATION AND POWERS.

- (a) *Organization.* The Board of Building and Zoning Appeals shall, at its organizational meeting, elect from its members a chair~~man~~ and a vice chair~~man~~. These officers shall serve a term of one year. The Clerk of Council shall serve as the Secretary of the Board, shall serve as the official custodian of its records, and shall perform such duties for the Board as are required. All filings pertaining to official Board actions and appeals shall be submitted to the Clerk. ~~A duly appointed Deputy Clerk of Council may perform the duties prescribed for the Clerk under this section.~~
- (b) *Powers.* The Board may adopt any rules necessary to implement and enforce ~~Article XII of~~ the City Charter and the City Codified Ordinances. The Board may issue subpoenas for the taking of testimony or production of documents pertaining to matters before it. The Board may require any City official or employee it considers to have information pertinent to an appeal to appear before it. (Ord. 0179-2002. Passed 10-7-02.)

### 147.03 - APPEALS TO THE BOARD.

- (a) *Appellant's Requirements.* Appeals shall be in writing, in the form prescribed by law, and shall be filed with the Clerk of Council within 30 days from the date of the action being appealed. The following items shall be filed with each appeal:
  - (1) A concise statement of the reason or legal basis for the appeal, along with a citation of the applicable Code section(s) signed by the appellant or agent, with the appellant or agent's printed name, address and telephone number.
  - (2) A listing of proposed exhibits, not already contained in the record, which shall be signed by the appellant or agent, along with ten copies of each of the exhibits;
  - (3) An affidavit of the applicant listing the names and addresses of all property owners contiguous to, and directly across the street from the property, as appearing on the Franklin County Auditor's current tax list;
  - (4) The filing fee required by ~~City Code Section 147.04~~;
- (b) *Appellee's Requirements.* The City official, employee or body whose decision is under appeal is deemed the appellee and is a party to the appeal.

Within seven days of notification of an appeal, the appellee shall transmit to the Clerk of Council the records pertaining to the matter under appeal. Further, the Board may require the appellees to provide a written statement describing the basis for the decision under appeal.

- (c) *Interested Party Requirements.* Any other person or organization wishing to intervene in the appeal as an interested party, shall place the Board on notice of the proposed intervention. The notice shall

be in writing, or shall be in person and on the record, and shall identify the interested party, the specific interest of the party in the action, and provide a name, mailing address, and telephone number where the party or the party's agent may be contacted.

- (d) *Filing and Transmittal of Appeals.* The Clerk of Council shall review the appellant's filings to ensure this section is complied with, and shall advise the appellant. Upon compliance with this section, the Clerk shall forward to the Board members all documents filed by the appellant. The Clerk shall also forward to the Board members the official record of the proceedings below.
- (e) *Notification Procedures.* At least five days prior to the hearing, the Clerk of Council shall notify in writing the following persons:
  - (1) The appellant;
  - (2) The appellee(s);
  - (3) Any interested parties of record, including all those persons who testified in any public hearings in opposition to the appellant's position;
  - (4) All property owners identified in accordance with Section 147.03(a)(3).
- (f) *Hearing Procedures.* If a party wishes to have a stenographer present at hearing, the party shall provide at least ~~five~~ two days' prior written notice to the Clerk. The party requesting the stenographer is responsible for the cost of such stenographer. The Board may have a stenographer present at a hearing. If a stenographer is present in accordance with this section, the stenographer's transcript shall be the official record. If no stenographer is present, the Clerk's minutes serve as the official record of the hearing. Any matter concerning hearing procedures not governed herein shall be governed by the Board's rules.
- (g) *Standards.* The appellant or proponent of a position which shall be before the Board has the burden of proof by a preponderance of the evidence. The Board shall consider all relevant evidence brought before it, provided however, evidence not disclosed as required may only be admitted in accordance with the Board's rules. Evidence not admitted into the record by the Board may be proffered into the record by a party. (Ord. 0179-2002. Passed 10-7-02.)

#### 147.04 - FEES.

- (a) The filing fee for appeals is as follows:
  - (1) *Single Family Residential Districts:* ..... \$ 50.00
  - (2) *All other districts:* ..... \$500.00
- (b) Fees are not refundable, unless the Board orders the fee waived due to special circumstances. (Ord. 0179-2002. Passed 10-7-02.)

#### 147.05 - DISPOSITION OF APPEALS.

In any appeal of an order, adjudication, or decision, the Board may:

- (a) Affirm;
- (b) Reverse;
- (c) ~~Modify~~ Amend; or

- (d) Remand with instructions to the City official, employee or body for further consideration and/or action. (Ord. 0179-2002. Passed 10-7-02.)