

ARTICLE XIII. APPEALS

SECTION

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Sec. 150.1301 Scope of Appeals.

An appeal from any decision or ruling of the Zoning Administrator made in interpreting, applying and/or enforcing the regulations contained in this Chapter may be taken within forty-five (45) days of the decision or ruling to the Zoning Board of Appeals by any person, firm, or corporation aggrieved by the decision or ruling or by any other officer, department, board or commission of the City.

Sec. 150.1302 Notice of Appeal.

(A) An appellant shall file notice of such appeal with the Zoning Administrator on forms provided by the Zoning Administrator, who shall forward a copy without delay to the City Clerk for processing of payment, and preparation and publication of notice.

(B) An appeal shall be governed by additional administrative procedures as may be prescribed by rule of the Zoning Board of Appeals and the Notice of Appeal shall contain the following information, as well as such additional information as the Zoning Board of Appeals may require:

- (1) A statement of the particular requirements of this Chapter which are in contention;
- (2) A statement specifying the grounds for appeal;
- (3) A legal description of the subject property;
- (4) The commonly known location (address) of the subject property;
- (5) The present zoning classification of the subject property;
- (6) The name and address of the legal or beneficial owner of the subject property; and
- (7) The name and address of the petitioner and the attorney of the applicant, if any.

(C) At the time of filing, the Notice of Appeal shall be accompanied by:

- (1) Such plats and exhibits as may be reasonably necessary for a proper determination of the question presented for review; and

(2) Payment of filing fees:

(a) An application fee equal to the amount established by resolution adopted by the City Council from time to time and maintained in the office of the Zoning Administrator; and

(b) One Hundred Fifty Dollars (\$150) as a deposit to cover costs of the transcript of the public hearing prepared by a certified court reporter, with the understanding that any amount over and above the \$150 will be paid the City by the petitioner within ten (10) days of receipt of an invoice therefore. The City will refund any difference between the \$150 and any lower cost of the transcript. (Repealed by Ord. 46-02, J. 28, p. 348-351, passed 7/22/02)

Sec. 150.1303 Processing, Notice and Hearing.

(A) Upon receipt by the Zoning Administrator of a copy of the Notice of Appeal that has been duly filed, the Zoning Administrator shall assign a case or docket number to the notice of appeal, shall schedule a hearing thereon before the Zoning Board of Appeals, and shall maintain a file for such appeal, which file shall be open to the public for inspection during regular business hours.

(1) All documents pertinent to the case (application, legal notice, evidence, exhibits, transcript or record of proceedings, etc.) shall be placed in such file.

(2) When notice of appeal has been filed, the Zoning Administrator shall forthwith transmit to the Zoning Board of Appeals all papers constituting the record regarding the appeal. During the hearing, the Zoning Administrator shall have the right to submit supplementary written and oral testimony to explain the appealed action.

(B) Not more than thirty (30) days nor less than fifteen (15) days before the hearing on which the Notice of Appeal is to be considered, the City Clerk shall cause notice thereof to be published in one or more newspapers published in the City, or, if no newspaper is published within the City, then in one or more newspapers with a general circulation within the City. The notice herein required shall contain:

- (1) The legal description of the subject property;
- (2) The address of the subject property;
- (3) A brief statement of the nature of the requested appeal;
- (4) The name(s) and address(es) of the legal and/or beneficial owner(s) of the subject property;
- (5) The name(s) and address(es) of the petitioner(s);
- (6) The name of the legal representative of the petitioner, if any; and
- (7) A statement of the date, time, and place of the hearing for which the notice is being given.

(C) Any party in interest may appear and be heard at the hearing held pursuant to any such appeal, and such appearance may be made in person, by agent, or by attorney.

(D) In the hearing on such appeal, the Zoning Board of Appeals shall consider all matters de novo.

Sec. 150.1304 Action on Appeal.

(A) Within fifteen (15) days after the final hearing, the Zoning Board of Appeals shall decide the appeal, unless within such period of time the Zoning Board of Appeals shall meet and extend the time within which a decision may be made for an additional fifteen (15) days.

(1) The Zoning Board of Appeals may reverse or confirm, wholly or partly modify, or amend any order, requirement, decision or determination appealed from to the extent and in the manner the Zoning Board of Appeals may determine to be fitting and proper, subject to the provisions contained in this Chapter or in the applicable statutes of the State of Illinois.

(2) If, at the expiration of such fifteen (15) days (or additional fifteen (15) day extension, as the case may be), the Zoning Board of Appeals does not make its decision, it shall be concluded that the Zoning Board of Appeals decided against the petitioner.

(B) With respect to any given real property, no permit shall be issued during the pendency of an appeal regarding such property before the Zoning Board of Appeals, nor while any litigation affecting such property is pending in any court challenging the City's actions, nor while any appeal is pending from any court's action overriding or reversing the City's actions regarding such property, nor during the time within which such appeal from a court's actions can lawfully be taken.

(1) An appeal shall stay all proceedings in furtherance of the action appealed from unless after the notice of appeal has been filed the Zoning Administrator certifies to the Zoning Board of Appeals that a stay would, in his opinion, cause imminent peril to life or property. In this event the proceedings shall not be stayed except by a restraining order, which may be granted by the Zoning Board of Appeals or by a court of record for cause shown.

(2) Nothing in this Section shall be construed as abolishing any other regulation restricting the issuance of permits or the construction or alteration of buildings, but is in addition thereto and declared to be necessary for the immediate preservation of the public peace, health, safety, and general welfare.

(C) While a majority of a quorum of the Zoning Board of Appeals is necessary to deny an appeal, a concurring vote of four (4) members of the Zoning Board of Appeals shall be necessary to reverse any order, requirement, decision or determination of the Zoning Administrator. Findings of fact shall be included in final orders entered in each appeal, and the reasons for granting or denying the relief sought shall be specified.