

SECTION 25. REMEDIES

The Department of Buildings and Safety Engineering, through its officers, inspectors or employees, or the Corporation Counsel, shall institute any appropriate action or proceeding in law or equity to prevent, restrain, correct, or abate any violation of the provisions of this Ordinance. In any proceeding for the violation of any provision of this Ordinance by the parking, storing or placing of a motor vehicle on land or premises, the registration plate displayed on such motor vehicle shall constitute in evidence a prima facie presumption that the owner of such motor vehicle was the person who parked, stored or placed such motor vehicle at the point where such violation occurred.

SECTION 26. BOARD OF ZONING APPEALS

SEC. 26.1. BOARD ESTABLISHED

There is hereby established a Board of Zoning Appeals, which shall perform its duties and exercise its powers as provided by law in such a way that the objectives of this Ordinance shall be observed, public safety secured, and substantial justice done.

SEC. 26.2. PERSONNEL OF BOARD

The Board shall consist of six (6) members, five (5) of whom shall be appointed by the Common Council and one of whom shall be the Director of the City Plan Commission. Appointments shall be for a period of one (1), two (2), and three (3) years, respectively, so as nearly as may be to provide for the appointment of an equal number each year, thereafter each member to hold office for the full three (3) year term. The members shall be citizens of the United States and residents of the City of Detroit. Appointed members may be removed for cause by the Common Council only after consideration of written charges and a public hearing. Any appointive vacancies in the Board shall be filled by the Common Council for the remainder of the unexpired term. The compensation of the appointed members of the Board shall be fixed by the Common Council.

SEC. 26.3. OFFICERS

The Board shall annually elect its own Chairman, Vice-Chairman and Secretary, and, in accordance with the provisions relative to civil service, shall appoint such additional assistants, clerks and subordinates as may be necessary. The Board shall prescribe their duties and shall, subject to the approval of the Common Council, fix their compensation.

SEC. 26.4. MEETINGS AND RECORDS

All Board meetings shall be open to the public. Regular meetings shall be held at least once a week, and special meetings shall be held at the call of the Chairman or as the Board may determine, or upon written request of three (3) members provided twenty-four (24) hours' notice has been given to each member before the time set for such meetings. Four (4) members of the Board shall constitute a quorum for the conduct of its business. Concise records shall be kept of all proceedings before the Board and minutes shall be kept of its official acts. The Board shall have the power to subpoena and require the attendance of witnesses, administer oaths, compel testimony and the production of books, papers, files and other evidence pertinent to the matter before it.

SEC. 26.5. JURISDICTION AND APPEALS

The Board shall hear and decide appeals from, and review any order, requirement, decision or determination made by any administrative official charged with the enforcement of this Ordinance. They shall also hear and decide all matters referred to them or upon which they are required to pass under this Ordinance. The concurring vote of four (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 any matter upon which they are required to pass under this Ordinance, or to effect any variation in such Ordinance. Such appeal may be taken by any person aggrieved or by any officer, department, board or bureau of the City. Such appeal shall be taken within such time as shall be prescribed by the Board by general rule, by the filing in writing, with the officer from whom the appeal is taken and with the Board of a notice in

writing of appeal 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. An appeal stays all proceedings in furtherance of the action appealed from unless the officer from whom the appeal is taken certifies to the Board, 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 which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board or by the Circuit Court, or other Court of proper jurisdiction, on application, on notice to the officer from whom the appeal is taken and on due cause shown.

SEC. 26.6. RULES OF PROCEDURE AND NOTICE

The Board shall adopt general rules and regulations relating to its procedure. It shall by general rule or in specific cases, determine the interested parties who, in the opinion of the Board, may be affected by any matter brought before it, which shall in all cases include all owners of record of property within 300 feet of the premises in question, such notice to be delivered personally or by mail addressed to the respective owners at the address given in the last assessment roll. The Board may require any party applying to the Board for relief to give such notice to other interested parties as it shall prescribe.

SEC. 26.7. HEARINGS AND POWERS

The Board shall fix a reasonable time for the hearing of the appeal and give due notice thereof to the parties and decide the same within a reasonable time. Upon the hearing, any party may appear in person or by agent or by attorney. The Board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and shall make such order, requirement, decision or determination as in its opinion ought to be made in the premises, subject to the conditions and limitations of this Section, and to that end shall have all the powers of the officer from whom the appeal is taken. The decision of the Board in these and all other matters heard by it shall be final insofar as it involves discretion or the finding of facts.

The Board shall have power in addition to other proper variations and modifications, to grant the following special exceptions after public notice and hearing, provided that after investigation the Board ascertains the conditions involved in the proposed exception conform to the limitations and restrictions specified for each such exception as listed in the following paragraphs:

(A) The Board shall have the power to hear and decide appeals where it is alleged by the appellant that there is an error in any refusal of a building permit or certificate of occupancy, or other order, requirement or decision made by the Commissioner of Buildings and Safety Engineering, City Plan Commission or other administrative official in the administration of this Ordinance. Nothing contained in this paragraph shall be deemed to authorize the Board to reverse or modify a refusal or other order or decision which conforms to the provisions of this Ordinance.

(B) Where owing to special conditions a literal enforcement of the use provisions of this Ordinance would involve practical difficulties or cause unnecessary hardships, within the meaning of this Ordinance, the Board shall have power upon appeal in specific cases to authorize such variation or modifications of the use provisions of this Ordinance with such conditions and safeguards as it may determine, as may be in harmony with the spirit of this Ordinance and so that public safety and welfare be secured and substantial justice done. No such variance or modification of the use provisions of this Ordinance shall be granted unless it appears beyond a reasonable doubt that all the following facts and conditions exist:

(1) That there are exceptional or extraordinary circumstances or conditions applicable to the property involved or to the intended use of the property that do not apply generally to other properties or class of uses in the same district or zone.

(2) That such variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same zone and vicinity.

(3) That the granting of such variance or modification will not be materially detrimental to the public welfare or materially

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