

this requirement shall not apply to any change or alteration not inconsistent with the allowable use of the structure permissible prior to the enactment of this section.

4. Any building permit issued under this section for the temporary conversion and use of non-residential structures for dwelling purposes shall expire six (6) months after the Common Council shall have determined by resolution that the need for such temporary housing facilities shall have terminated or in the absence of any such determination six (6) months after the President of the United States shall have declared the period of unlimited national emergency ended.

The use of a structure in accordance with a permit issued under this section shall not constitute abandonment or discontinuance of a non-conforming use as outlined under Section 3.3, Paragraph (d) of this Ordinance.

Failure to comply with and observe all the requirements and limitations of this section or to discontinue the temporary use of a structure for dwelling purposes after the building permit for such use has terminated or has been revoked shall constitute a violation of this Ordinance.

The Department of Buildings and Safety Engineering is hereby authorized and empowered after notice and hearing to revoke any building permit issued under this section for the temporary conversion and use of a structure for dwelling purposes where such conversion and/or use has not been carried on in full compliance with all of the requirements and limitations of this section.

SECTION 19. REMEDIES

The Department of Building 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 20. BOARD OF ZONING APPEALS

SEC. 20.1. 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. 20.2. PERSONNEL OF THE BOARD

After the effective date of this amendment, the Board shall consist of six members appointed by the Common Council for a term of three years: Provided, however, in order to provide for the appointment of two members each year, the term of the sixth member appointed hereunder shall expire December 31, 1953; thereafter the appointment shall also be for the full term of three years. The members shall be citizens of the United States and residents of the City of Detroit, and not members of any other city board, department, commission or any other division of the municipal government. Members may be removed for cause by the Common Council only after consideration of written charges and a public hearing. Any vacancies in the Board shall be filled by the Common Council for the remainder of the unexpired term. The compensation of the members of the Board shall be fixed by the Common Council. (Adopted Aug. 7, 1952; Ord. 669-E.)

SEC. 20.3. 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. 20.4. 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. 20.5. 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. 20.6. 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 and shall prescribe the means by which such interested parties shall be notified as to the time and place of hearing on such matters. The Board may require any party applying to the Board for relief to give such notice to interested parties as it shall prescribe.

SEC. 20.7. 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 to interpret the provisions of this Ordinance in such a way as to carry out the intent and purpose of the District Maps accompanying and made a part of this Ordinance where the street or alley layout actually on the ground varies from the layout as shown on said maps after notice and hearing to parties owning property involved in such interpretation.

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 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.

Where owing to special conditions a literal enforcement of the provisions of this Ordinance will result in unnecessary hardship or involve practical difficulties, the Board shall have power upon appeal in specific cases to authorize such variation or modification of the terms of this Ordinance as will not be contrary to the public interest and so that the spirit of this Ordinance shall be

observed, public safety secured and substantial justice done.

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) Permit the erection and use of a building, or an addition to an existing building, of a public service corporation or for public utility purposes in any permitted district to a greater height or with lesser yards on the lot occupied by such building than the district requirements herein established, and permit the location in any district of a public utility building, structure or use, if, upon investigation by the Board it is ascertained from the facts that such use, height, area, building or structure are reasonably necessary for the public convenience and service, and that such building or structure is designed, erected and landscaped to conform harmoniously with the general architecture and plan of such district.

(b) Permit the extension of any building, structure or use into a more restricted district immediately adjacent thereto under such conditions and limitations as will safeguard the character of the more restricted district, provided a reasonable need for such an extension and an absence of injurious effect on the contiguous property is shown to the satisfaction of the Board.

(c) In undeveloped sections of the city the Board may approve temporary and conditional permits for non-conforming uses, to terminate at a date specified in the approval, which date shall not exceed two (2) years from the date of the permit, provided that upon investigation by the Board it is ascertained that such uses are helpful to the development of such sections and are not detrimental to the adjoining and neighboring developed sections. Renewals of such permits may be approved by the Board provided the general conditions of the neighborhood have remained practically unchanged.

(d) Permit such variation or modification of yard, lot area and percentage of lot coverage requirements of this Ordinance as may be necessary to secure an appropriate improvement of a specific parcel of land which at the effective date of this Ordinance was of such size, shape or dimension, or which at the effective date of this Ordinance had such peculiar or exceptional geographical or topographical conditions, that it cannot be appropriately improved without such variation or modification, provided that the purpose and spirit of this Ordinance shall be observed, public safety secured, and substantial justice done.

(e) Permit a partial or complete exception to the loading space provisions of Section 3.16 where, after investigation by the Board, it is ascertained that the volume of vehicular service will not require compliance with said provision, and will not cause undue interference with the public use of the streets or alleys or imperil the public safety and where such modification or exception will not be inconsistent with the purpose and spirit of this Ordinance.

(f) Permit an increase in height of a non-conforming building or structure existing at the effective date of this Ordinance, or an enlargement or extension of such a non-conforming building, structure or use upon land partially occupied by such existing non-conforming building, structure or use at the effective date of this Ordinance, subject to such conditions and protections as will safeguard the character of contiguous property and the surrounding neighborhood, provided that the spirit of this Ordinance shall be observed, public safety secured and substantial justice done.

(g) Permit the temporary extension, enlargement, or increase in height of an existing building or structure, occupied at the effective date of Ordinance 171-D by a non-conforming use permissible in an ML6 District and the temporary expansion of such use, provided the Board finds such addition and expansion of use to be essential to National Defense, and a bond with form and sureties satisfactory to the Corporation Counsel, is filed in an amount substantially equivalent to the cost of such addition, guaranteeing the removal of the temporary addition and the additional use at the expiration of the building permit therefor, and indemnifying the City of Detroit for any expense or liability which may be incurred through obtaining, compelling or causing such removal. The approval of the Board, and any building permit based thereon, for such a temporary addition and expansion of use, shall expire six (6) months after operations or production for National Defense shall have terminated in such addition, or six (6) months after the President of the United States shall

declare that the period of unlimited National Emergency has terminated. In permitting such temporary addition and expansion of use the Board may impose any reasonable requirements or condition which it deems necessary to minimize any injurious effect upon the neighborhood or to protect the contiguous property. Such temporary addition and expansion of use shall be removed forthwith on or before the expiration of the building permit under which it was erected, and its owners and lessees shall be deemed guilty of violating this Ordinance if such addition or expansion of use is not removed on or before the expiration of the building permit under which it was constructed or instituted.

(h) Permit the temporary occupancy of any existing building, structure, or premises in any B2, B6, BL, BC or C6 District by a non-conforming use permissible in an ML6 District and/or the temporary expansion of such use and/or the temporary enlargement of any such building or structure for such use, provided the Board finds such occupancy and/or expansion of use and/or enlargement of building or structure to be essential to National Defense and a bond with form and sureties satisfactory to the Corporation Counsel is filed guaranteeing the elimination, discontinuance and removal of such non-conforming use and any such enlargement of building or structure at the expiration of the building permit therefor and indemnifying the City of Detroit for any expense or liability which may be incurred through obtaining, compelling, or causing such elimination and discontinuance. The amount of such bond shall be substantially equivalent to the value of the machinery, tools, furniture, and equipment thus temporarily utilized for a non-conforming use in an existing building and in the case of any enlargement of any such building or structure, the amount of the bond shall be substantially equivalent to the value of such addition or extension.

The approval of the Board and any building permit based thereon for such temporary occupancy and/or expansion of use or enlargement of building or structure shall expire six (6) months after operations or production for National Defense shall have terminated on such premises or in such building, structure, or enlargement thereof or six (6) months after the President of the United States shall declare that the period of unlimited national emergency has terminated.

In permitting such temporary occupancy and/or expansion of use, and/or enlargement of building or structure, the Board may impose any reasonable requirement or condition which it deems necessary to minimize any injurious effect upon the neighborhood or to protect the contiguous property.

Such temporary occupancy and/or expansion of use and/or enlargement of building or structure shall be discontinued, eliminated and removed forthwith on or before the expiration of the building permit under which it was instituted, created or erected, and its owners and lessees shall be deemed guilty of violating this Ordinance if such temporary occupancy, expansion of use and/or enlargement of building or structure is not discontinued, eliminated, and removed on or before the expiration of the building permit under which it was constructed, instituted or created.

(i) Permit the alteration and use of any existing dwelling for a greater number of families than is allowed under this Ordinance for the district in which such dwelling is located, upon a finding by the Commission that such dwelling is located in a blighted area wherein rehabilitation by conversion is desirable, and upon determination by the Board that such alteration and use will not be injurious to the surrounding neighborhood and not contrary to the spirit and purpose of this Ordinance: Provided, That the authority granted the Board by this paragraph shall expire thirty (30) days after the President of the United States shall have declared that the period of unlimited national emergency has ended: And Provided further, That the term "blighted area" shall mean a portion of the city in which substandard insanitary, outworn or outmoded industrial, commercial or residential buildings are prevalent, and which, by reason of age, obsolescence, inadequate or outmoded design, or physical deterioration, have become economic or social liabilities, or both.

(j) Permit a variation in the use of and/or location of a building or structure upon a lot which abuts directly a zoned district different than the district in which the lot is located, under the following conditions and limitations:

- (1) That a reasonable need for such a variance is shown.
- (2) That such use or location will not have an injurious effect on the contiguous or the surrounding property.
- (3) That the height of the structure shall not exceed the maximum height restrictions permitted in the district in which the lot is located.