

AN ORDINANCE BY THE BOARD OF ALDERMAN OF THE CITY OF WOOD HEIGHTS, COUNTY OF RAY, STATE OF MISSOURI ESTABLISHING A BOARD OF ADJUSTMENT FOR THE PLANNING AND ZONING COMMISSION ; APPOINTMENT OF MEMBERS; RULES AND REGULATIONS; PROCEDURES; SETTING AN EFFECTIVE DATE FOR THIS ORDINANCE; AND REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH:

BE IT ORDAINED BY THE BOARD OF ALDERMAN OF THE CITY OF WOOD HEIGHTS, MISSOURI:

SECTION 1. AFTER MATURE AND DELIBERATE CONSIDERATION FOR THE HEALTH AND WELFARE OF THE CITY OF WOOD HEIGHTS, THE BOARD OF ALDERMAN HEREBY ESTABLISHES A "BOARD OF ADJUSTMENT".

SECTION 2. THE BOARD OF ALDERMAN SHALL PROVIDE FOR THE APPOINTMENT OF A BOARD OF ADJUSTMENT, AND IN THE REGULATIONS AND RESTRICTIONS ADOPTED PURSUANT TO THE AUTHORITY OF CHAPTER 89, SECTIONS 89.010 TO 89.140 OF THE RSMo MAY PROVIDE THAT THE BOARD OF ADJUSTMENT MAY DETERMINE AND VARY THEIR APPLICATION IN HARMONY WITH THEIR GENERAL PURPOSE AND INTENT AND IN ACCORDANCE WITH GENERAL OR SPECIFIC RULES THEREIN CONTAINED. THE BOARD OF ADJUSTMENT SHALL CONSIST OF FIVE MEMBERS, WHO SHALL BE RESIDENTS OF WOOD HEIGHTS, MO. THE MEMBERSHIP OF THE FIRST BOARD APPOINTED SHALL SERVE RESPECTIVELY, ONE FOR ONE YEAR, ONE FOR TWO YEARS, ONE FOR THREE YEARS, ONE FOR FOUR YEARS, AND ONE FOR FIVE YEARS. THEREAFTER MEMBERS SHALL BE APPOINTED FOR TERMS OF FIVE YEARS EACH. THREE ALTERNATE MEMBERS MAY BE APPOINTED TO SERVE IN THE ABSENCE OF OR THE DISQUALIFICATION OF THEIR REGULAR MEMBERS. ALL MEMBERS AND ALTERNATES SHALL BE REMOVABLE FOR CAUSE BY THE BOARD OF ALDERMAN UPON WRITTEN CHARGES AND AFTER PUBLIC HEARING. VACANCIES SHALL BE FILLED FOR THE UNEXPIRED TERM OF ANY MEMBER WHOSE TERM BECOMES VACANT. THE BOARD SHALL ELECT ITS OWN CHAIRMAN WHO SHALL SERVE FOR ONE YEAR. THE BOARD SHALL ADOPT RULES IN ACCORDANCE WITH THE PROVISIONS OF ANY ORDINANCE ADOPTED PURSUANT TO CHAPTER 89, SECTIONS 89.010 TO 89.1040 OF THE RSMo. MEETINGS OF THE BOARD SHALL BE HELD AT THE CALL OF THE CHAIRMAN AND AT SUCH OTHER TIMES AS THE BOARD MAY DETERMINE. SUCH CHAIRMAN, OR IN HIS ABSENCE THE ACTING CHAIRMAN, MAY ADMINISTER OATHS AND COMPEL THE ATTENDANCE OF WITNESSES. ALL MEETINGS OF THE BOARD SHALL BE OPEN TO THE PUBLIC. THE BOARD SHALL KEEP MINUTES OF ITS PROCEEDINGS, SHOWING THE VOTE OF EACH MEMBER UPON QUESTION, OR, IF ABSENT OR FAILING TO VOTE, INDICATING SUCH FACT, AND SHALL KEEP RECORDS OF ITS EXAMINATIONS AND OTHER OFFICIAL ACTIONS, ALL OF WHICH SHALL BE IMMEDIATELY FILED IN THE OFFICE OF THE BOARD AND SHALL BE A PUBLIC RECORD. ALL TESTIMONY, OBJECTIONS THERETO AND RULINGS THEREON, SHALL BE TAKEN DOWN BY A REPORTER ASSIGNED BY THE BOARD FOR THAT PURPOSE.

SECTION 3.

THE BOARD OF ADJUSTMENT SHALL HAVE THE FOLLOWING POWERS:

A.) TO HEAR AND DECIDE APPEALS WHERE IT IS ALLEGED THERE IS ERROR IN ANY ORDER, REQUIREMENT, DECISION, OR DETERMINATION MADE BY AN ADMINISTRATIVE OFFICIAL IN THE ENFORCEMENT OF THE "PLANNING AND ZONING COMMISSION" RULES AND REGULATIONS OR OF ANY ORDINANCE ADOPTED PURSUANT TO THE ORGANIZATION OF THE COMMISSION.

B.) TO HEAR AND DECIDE ALL MATTERS REFERRED TO IT OR UPON WHICH IT IS REQUIRED TO PASS UNDER SUCH ORDINANCE:

C.) IN PASSING UPON APPEALS, WHERE THERE ARE PRACTICAL DIFFICULTIES OR UNNECESSARY HARDSHIP IN THE WAY OF CARRYING OUT THE STRICT LETTER OF SUCH ORDINANCE, TO VARY OR MODIFY THE APPLICATION OF ANY OF THE REGULATIONS OR PROVISIONS OF SUCH ORDINANCE RELATING TO THE CONSTRUCTION OR ALTERATION OF BUILDINGS OR STRUCTURES OR THE USE OF LAND SO THAT THE SPIRIT OF THE ORDINANCE SHALL BE OBSERVED, PUBLIC SAFETY AND WELFARE SECURED AND SUBSTANTIAL JUSTICE DONE.

SECTION 4. IN EXERCISING THE ABOVE MENTIONED POWERS SUCH BOARD MAY IN CONFORMITY WITH THE PROVISIONS OF CHAPTER 89, SECTION 89.010 TO 89.1040 OF THE RSMo, REVERSE OR AFFIRM WHOLLY OR PARTLY, OR MAY MODIFY THE ORDER, REQUIREMENT, DECISION OR DETERMINATION APPEALED FROM AND MAY MAKE SUCH ORDER, REQUIREMENT, DECISION OR DETERMINATION AS OUGHT TO BE MADE AND TO THAT END SHALL HAVE ALL THE POWERS OF THE OFFICER FROM WHOM THE APPEAL IS TAKEN. THE CONCURRING VOTE OF FOUR 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 ON ANY MATTER UPON WHICH IT IS REQUIRED TO PASS UNDER ANY SUCH ORDINANCE OR TO EFFECT ANY VARIATION IN SUCH ORDINANCE.

SECTION 5. APPEALS TO THE BOARD OF ADJUSTMENT MAY BE TAKEN BY ANY PERSON AGGRIEVED, BY AN NEIGHBORHOOD ORGANIZATION AS DEFINED IN SECTION 32.105, RSMo, REPRESENTING SUCH PERSON, OR BY ANY OFFICER, DEPARTMENT, BOARD OR BUREAU OF THE CITY OF WOOD HEIGHTS AFFECTED BY ANY DECISION OF THE ADMINISTRATIVE OFFICER. SUCH APPEAL SHALL BE TAKEN WITHIN A REASONABLE TIME, AS PROVIDED BY THE RULES OF THE BOARD; BY FILING WITH THE OFFICER FROM WHOM THE APPEAL IS TAKEN AND WITH THE BOARD OF ADJUSTMENT A NOTICE 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 OF ADJUSTMENT 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 IMMEDIATE PERIL TO LIFE OR PROPERTY. IN SUCH CASE PROCEEDINGS SHALL NOT BE STAYED OTHERWISE THAN BY A RESTRAINING ORDER WHICH MAY BE GRANTED BY THE BOARD OF ADJUSTMENT OR BY A COURT OF RECORD ON APPLICATION OR NOTICE TO THE OFFICER FROM WHOM THE APPEAL IS TAKEN AND ON DUE CAUSE SHOWN: THE BOARD OF ADJUSTMENT SHALL FIX A REASONABLE TIME FOR THE HEARING OF THE APPEAL, GIVE PUBLIC NOTICE THEREOF, AS WELL AS DUE NOTICE TO THE PARTIES IN INTEREST, AND DECIDE THE SAME WITHIN A REASONABLE

TIME. UPON THE HEARING ANY PARTY MAY APPEAR IN PERSON OR BY AGENT OR BY ATTORNEY.

SECTION 6. ANY PERSON OR PERSON JOINTLY OR SEVERALLY AGGRIEVED BY ANY DECISION OF THE BOARD OF ADJUSTMENT, ANY NEIGHBORHOOD ORGANIZATION AS DEFINED IN SECTION 32.105 RSMo, REPRESENTING SUCH PERSON OR PERSONS OR ANY OFFICER, DEPARTMENT, BOARD OR BUREAU OF THE CITY OF WOOD HEIGHTS, MAY PRESENT TO THE CIRCUIT COURT OF THE COUNTY IN WHICH THE PROPERTY AFFECTED IS LOCATED A PETITION, DULY VERIFIED, SETTING FORTH THAT SUCH DECISION IS ILLEGAL, IN WHOLE OR IN PART, SPECIFYING THE GROUNDS OF THE ILLEGALITY. SUCH PETITION SHALL BE PRESENTED TO THE COURT WITHIN THIRTY DAYS AFTER THE FILING OF THE DECISION IN THE OFFICE OF THE BOARD. UPON THE PRESENTATION OF SUCH PETITION THE COURT MAY ALLOW A WRIT OF CERTIORARI DIRECTED TO THE BOARD OF ADJUSTMENT TO REVIEW SUCH DECISION OF THE BOARD OF ADJUSTMENT AND SHALL PRESCRIBE THEREIN THE TIME WITHIN WHICH A RETURN THERETO MUST BE MADE AND SERVED UPON THE RELATOR'S ATTORNEY, WHICH SHALL NOT BE LESS THAN TEN DAYS AND MAY BE EXTENDED BY THE COURT. THE ALLOWANCE OF THE WRIT SHALL NOT STAY PROCEEDINGS UPON THE DECISION APPEALED FROM, BUT THE COURT MAY, ON APPLICATION, ON NOTICE TO THE BOARD AND ON DUE CAUSE SHOWN, GRANT A RESTRAINING ORDER. THE BOARD OF ADJUSTMENT SHALL NOT BE REQUIRED TO RETURN THE ORIGINAL PAPERS ACTED UPON BY IT, BUT IT SHALL BE SUFFICIENT TO RETURN CERTIFIED OR SWORN COPIES THEREOF OR OF SUCH PORTIONS THEREOF AS MAY BE CALLED FOR. THE RETURN SHALL CONCISELY SET FORTH SUCH OTHER FACTS AS MAY BE PERTINENT AND MATERIAL TO SHOW THE GROUNDS OF THE DECISION APPEALED FROM AND SHALL BE VERIFIED. IF, UPON THE HEARING, IT SHALL APPEAR TO THE COURT THAT TESTIMONY IS NECESSARY FOR THE PROPER DISPOSITION OF THE MATTER, IT MAY TAKE ADDITIONAL EVIDENCE OR APPOINT A REFEREE TO TAKE SUCH EVIDENCE AS IT MAY DIRECT AND REPORT THE SAME TO THE COURT WITH HIS FINDINGS OF FACT AND CONCLUSIONS OF LAW, WHICH SHALL CONSTITUTE A PART OF THE PROCEEDINGS UPON WHICH A DETERMINATION OF THE COURT SHALL BE MADE. THE COURT MAY REVERSE OR AFFIRM, WHOLLY OR PARTLY, OR MAY MODIFY THE DECISION BROUGHT UP FOR REVIEW. COSTS SHALL NOT BE ALLOWED AGAINST THE BOARD UNLESS IT SHALL APPEAR TO THE COURT THAT IT ACTED WITH GROSS NEGLIGENCE, OR IN BAD FAITH, OR WITH MALICE IN MAKING THE DECISION APPEALED FROM.

SECTION 7. IN CASE ANY BUILDING OR STRUCTURE IS ERECTED, CONSTRUCTED, RECONSTRUCTED, ALTERED, CONVERTED OR MAINTAINED OR ANY

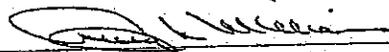
BUILDING, STRUCTURE OR LAND IS USED IN VIOLATION OF ALL SECTIONS OR A OF ANY ORDINANCE OR OTHER REGULATION MADE UNDER AUTHORITY CONFERRED HEREBY, THE CITY OF WOOD HEIGHTS, IN ADDITION TO OTHER REMEDIES, MAY INSTITUTE ANY APPROPRIATE ACTION OR PROCEEDINGS TO PREVENT SUCH UNLAWFUL ERECTION, CONSTRUCTION, RECONSTRUCTION, ALTERATION, CONVERSION, MAINTENANCE OR USE, TO RESTRAIN, CORRECT OR ABATE SUCH VIOLATION, TO PREVENT THE OCCUPANCY OF SUCH BUILDING, STRUCTURE, OR LAND, OR TO PREVENT ANY ILLEGAL ACT, CONDUCT, BUSINESS, OR USE IN OR ABOUT SUCH PREMISES. SUCH REGULATIONS SHALL BE ENFORCED BY AN OFFICER EMPOWERED TO CAUSE ANY BUILDING, STRUCTURE, PLACE OR PREMISES TO BE INSPECTED AND EXAMINED AND TO ORDER IN WRITING THE REMEDYING OF ANY CONDITION FOUND TO EXIST THEREIN OR THEREAT IN VIOLATION OF ANY PROVISION OF THE REGULATIONS MADE UNDER THE AUTHORITY OF SAID ORDINANCE.

SECTION 8. THE OWNER OR GENERAL AGENT OF A BUILDING OR PREMISES WHERE A VIOLATION OF ANY PROVISION OF SAID REGULATIONS HAS BEEN COMMITTED OR SHALL EXIST, OR THE LESSEE OR TENANT OF AN ENTIRE BUILDING OR ENTIRE PREMISES WHERE SUCH VIOLATION HAS BEEN COMMITTED OR SHALL EXIST, OR THE OWNER, GENERAL AGENT, LESSEE OR THE TENANT OF ANY PART OF THE BUILDING OR PREMISES IN WHICH SUCH VIOLATION HAS BEEN COMMITTED OR SHALL EXIST, OR THE GENERAL AGENT, ARCHITECT, BUILDER, CONTRACTOR OR ANY OTHER PERSON WHO COMMITS, TAKES PART OR ASSISTS IN ANY SUCH VIOLATION OR WHO MAINTAINS ANY BUILDING OR PREMISES IN WHICH ANY SUCH VIOLATION SHALL EXIST SHALL BE GUILTY OF A MISDEMEANOR PUNISHABLE BY A FINE OF NOT LESS THAN ONE DOLLAR AND NOT MORE THAN ONE HUNDRED DOLLARS FOR EACH AND EVERY DAY THAT SUCH VIOLATION CONTINUES, BUT IF THE OFFENSE BE WILLFUL ON CONVICTION THEREOF, THE PUNISHMENT SHALL BE A FINE OF NOT LESS THAN ONE HUNDRED DOLLARS OR MORE THAN TWO HUNDRED AND FIFTY DOLLARS FOR EACH AND EVERY DAY THAT SUCH VIOLATION SHALL CONTINUE OR BY IMPRISONMENT FOR TEN DAYS FOR EACH AND EVERY DAY SUCH VIOLATION SHALL CONTINUE OR BY BOTH SUCH FINE AND IMPRISONMENT IN THE DISCRETION OF THE COURT.

SECTION 9. ANY SUCH PERSON WHO HAVING BEEN SERVED WITH AN ORDER TO REMOVE ANY SUCH VIOLATION SHALL FAIL TO COMPLY WITH SUCH ORDER WITHIN TEN DAYS AFTER SUCH SERVE OR SHALL CONTINUE TO VIOLATE ANY PROVISION OF THE REGULATIONS MADE UNDER AUTHORITY OF CITY OF WOOD HEIGHTS ORDINANCE IN THE RESPECT NAMED IN SUCH ORDER SHALL ALSO BE SUBJECT TO A CIVIL PENALTY OF TWO HUNDRED AND FIFTY DOLLARS.

SECTION 10. THIS ORDINANCE SHALL TAKE EFFECT FROM AND AFTER ITS DATE OF PASSAGE AND APPROVAL. ALL ORDINANCE OR PARTS OF ORDINANCE SIN CONFLICT HEREWITH ARE HEREBY REPEALED.

READ TWO TIMES AND PASSED, AND APPROVED BY THE MAYOR AND BOARD OF ALDERMAN THIS 19TH DAY OF JANUARY, 1999.



MAYOR

ATTESTED BY:

  
CITY CLERK

SEAL