

Chapter 18.88

BOARD OF ADJUSTMENT

Sections:

- 18.88.010 Appointment and membership.
- 18.88.020 Authority.
- 18.88.030 Meetings - Notice - Records.
- 18.88.040 Jurisdiction.
- 18.88.050 Appeals.

18.88.010 Appointment and Membership

The Board of Adjustment of the City is established. The word "Board" when used in this chapter shall be construed to mean the Board of Adjustment. The Board shall consist of five members who shall be citizens of the City. Three members shall be appointed by a majority vote of the City Planning Commission and shall be selected from the members of the Planning Commission. The Vice Chairman of the Planning Commission shall be one of the three members from said Commission and shall serve as Chairman of the Board of Adjustment. These three members shall serve one-year terms. The remaining two members shall be appointed by the Mayor and approved by the City Council to serve three-year terms. Vacancies shall be filled for an unexpired term only, in case of necessity. Members shall be removed from the Board for cause by action of the Council upon written charges and after a public hearing. The members of the Board shall receive no compensation for their services. The Board shall adopt from time to time such rules and regulations, as it may deem necessary to carry into effect the provisions of this title.

(Ord. 213 Sec. 2401, 1969; Ord. 711 Sec. 1, 1983)

18.88.020 Authority

The Board of Adjustment shall have jurisdiction of certain matters arising in connection with the administration, enforcement, or interpretation of this title as herein provided.

(Ord. 213 Sec. 2402, 1969)

18.88.030 Meetings - Notice - Records

A. Meetings of the Board of Adjustment shall be held at such times as are established by the Board of Adjustment and as such, other times as the majority of the Board may determine. All meetings shall be open to the public. If there is no business scheduled at a regular meeting of the Board, the Chairman has the authority to cancel the meeting and notify all Board members. The Chairman, or in his absence the acting Chairman, may administer oath and compel the attendance of witnesses. The Board shall adopt its own rules and procedures and keep records of its proceedings showing the action of the Board and the vote of each member on each question considered. Records of its examinations and other official action shall be immediately filed in the office of the Board and shall be a public record.

(Ord. 711 Sec. 2, 1983)

B. The City Clerk shall be responsible for keeping, maintaining, and preparing all records for the Jacksonville Board of Adjustment, requesting assistance from other City Department and officials when needed to complete said task(s). The City Clerk's Office shall also be responsible to ensure that publication of meeting notices and variance/waiver request(s) occur in the allotted time(s) and minimum days prior to said meeting/hearing as required by this Code and/or State law.

(Ord. 1082 Sec. 2, 1997)

C. Each session of the Jacksonville Board of Adjustment shall constitute a public meeting with proper public notice of said meeting and the waiver(s) and/or variance request(s) to be addressed at said meeting published in a newspaper of general circulation in the City a minimum of one (1) time at least seven (7) days prior to the scheduled meeting. The Code Enforcement Office shall be responsible to ensure that the affected real property is properly posted with a notice(s) designating the specific request(s) for variance or change and the date, time, and place of the public hearing a minimum of seven (7) days prior to the scheduled meeting. Said notice shall be posted in a highly visible location upon the affected property.

(Ord. 1082 Sec. 2, 1997; Ord. 213 Sec. 2403, 1969; Ord. 698 Sec. 1, 1983)

18.88.040 Jurisdiction

A. The Board of Adjustment shall have the following powers and it shall be its duty:

1. To hear and decide appeals where it is alleged there is an error in an order, requirement, decision or determination made by the building inspector in the enforcement of this title;

2. To hear and decide upon applications for special exceptions enumerated in this title;
 3. To permit the extension of a district where the boundary line of a district divides a lot in a single ownership at the time of the passage of the ordinance codified herein;
 4. To interpret the provisions of this title in such a way as to carry out the intent and purpose of the plan as shown upon the accompanying official zoning map fixing the several districts where layout actually on this ground varies from the street layout on the map.
 5. To vary or modify the application of any of the regulations or provisions of this title where there are practical difficulties or unnecessary hardships to carry out the strict letter of this title, so that the spirit of this title shall be observed, public welfare and safety secured and substantial justice done.
 6. To permit variances from the sign ordinance as set forth in chapter and Sec. **18.76.040**.
- B. In exercising the above powers, the Board may, in conformity with the provisions of this title, reverse or affirm, wholly or in part, or may modify the order, requirement, decision or determination of the building inspector, and to that end shall have all the powers of the building inspector and may issue or direct the issuance of a building permit.
- C. A major vote of the members of the Board shall be necessary to reverse any order, requirement, decision or determination of the building inspector or to decide in favor of the applicant or on any matter upon which it is required to pass under the provisions of this title.

(Ord. 213 Sec. 2404, 1969; Ord. 872, 1987)

18.88.050 Appeals

- A. Appeals to the Board may be taken by any person aggrieved or by any officer, department, board or bureau of the City affected by any decision of the building inspector under this title. Appellants shall file with the Board a notice of appeals specifying the grounds thereof, and in addition shall pay a fee in the amount of fifty dollars to cover costs incurred by the Board in processing said appeal and providing for notice of said meeting; provided, that if the minimum charge of fifty dollars is deemed not sufficient to cover the aforementioned costs, the Board is empowered to assess additional fees in order to cover all costs incurred and necessary for the hearing of any appeal as provided herein. The building inspector shall

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forthwith transmit to the Board all the papers constituting the record upon which the action appealed from is taken. The final disposition of any such appeal shall be in the form of a decision expressed in a resolution, either reversing, modifying, or affirming, wholly or partially, the Board's decision or determination appealed from.

- B. Any person aggrieved at the findings of the Board of Adjustment of the City shall have the right of appeal from the findings of said Board to a court of record having jurisdiction in the manner provided for in the Statutes of Arkansas.

(Ord. 477 Sec. 1, 1978; Ord. 213 Sec. 2405, 1969)

Chapter 18.92

AMENDMENT PROCEDURE

Sections:

18.92.010 City Council powers.

18.92.020 Additional changes of previously affected property-time lapse.

18.92.010 City Council powers

The City Council may from time to time on its own motion or on petition or on recommendation of the Planning Commission, after public notice and hearing as provided by law, amend, supplement, abridge, modify or repeal the boundaries or regulations herein or subsequently established, after submitting the same to the City Planning Commission for its recommendation and report.

In case, however, of a protest against such change duly signed and acknowledged by the owners of twenty percent or more of the frontage proposed to be changed or of the frontage immediately in the rear thereof or directly opposite thereto, such amendment shall not be passed except by a two-thirds vote of all members of the City Council including the Mayor. (Ord. 213 Sec. 2501, 1969)

18.92.020 Additional changes of previously affected property - Time lapse

After any proposed change or amendment to the boundaries or regulations established under Ordinance Nos. 213 and 238 has been considered and acted upon by the Planning Commission or by the City Council, any additional proposed change or amendment to said property affected by the prior action shall not be re-submitted to the Planning Commission or City Council of the City for further consideration until such time as one year has elapsed from the date of the action on such proposed change or amendment to said property by the Planning Commission or the City Council. This in no way

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limits the right of the landowner to appeal the action of the Planning Commission to the City Council. For purposes of this section, "said property affected by the prior action" shall mean any tract of land being considered for a change or amendment under Ordinances 213 and 238 of which at least fifty percent (50%) of that land was included in a tract of land that had been up for said change or amendment within the past twelve (12) months before the Planning Commission or the City Council. Once the Planning Commission has made its recommendation as to the approval or denial of the landowner's request, the Planning Commission shall not hear any additional requests, reconsiderations, etc. in regard to that tract for a one-year period of time.

(Ord. 290 Sec. 1, 1973; Ord. 238 Sec. 2, 1971; Ord. 213 Sec. 2502, 1969; Ord. 777, 1986)

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