

1.77 - BOARD OF APPEALS . (Rep. & recr. #2621)

- (1) CREATION. The Board of Appeals is hereby created, pursuant to §62.23(7)(e), Wis. Stats.
- (2) MEMBERSHIP. (Cr. #2989; Am. #3034) The Board of Appeals shall consist of 5 members and 2 alternates. The membership of the Board of Appeals should reflect the diverse nature of the City's population.
- (3) APPOINTMENT. (Cr. #2989; Am. #3209; #3572) All board members and both alternates may be nominated by the Appointment Review Committee and, in accordance with Charter Ordinance No. 7, shall be appointed by the City Council President, subject to confirmation by the City Council. The City Council may interview nominees to the board prior to appointment and confirmation. The Council President shall, annually, designate one of the alternate members as "first alternate" and the other as "second alternate." The first alternate shall act, with full power, only when a member of the board refuses to vote because of interest or when a member is absent. The second alternate shall so act only when the first alternate so refuses or is absent or when more than one member of the board so refuses or is absent.
- (4) TERM OF OFFICE. (Cr. #2989)
  - (a) Term of Appointment . (Am. #3414) Board members and alternates shall be appointed for 3-year terms beginning June 1 of the first year and ending May 31 of the third year.
  - (b) Reserved . (Rep. #3414)
  - (c) Subsequent Terms . (Am. #3209) No board member may serve for more than 2 successive, full terms as a board member or more than 4 successive, full terms as a board member and an alternate. A board member who serves 2 successive, full terms as a board member or 4 successive terms as a board member and an alternate shall be eligible for reappointment one year after the board member or alternate completes his/her last successive, full term. An alternate may not serve for more than 2 successive, full terms as an alternate and shall be eligible for reappointment as an alternate one year after the alternate completes 2 successive, full terms as an alternate.
  - (d) Membership on Other Committees . No board member or alternate may serve on any other City board, committee or commission while that board member or alternate is serving on this board.
  - (e) Incumbents . Incumbents may continue to serve beyond the end of their terms until their successors have been appointed and seated.
  - (f) Vacancies . Vacancies shall be filled for the balance of the term. A board member or alternate appointed to fill a vacancy shall be appointed in the same manner as that member's or alternate's predecessor.
- (5) QUALIFICATIONS.
  - (a) Residency . All board members and alternates shall be residents of the City of Beloit. (Cr. #2989)
  - (b) City Employee's Spouse . One board member or alternate may be a City employee's spouse or significant other, as long as the City employee's job is not affected, directly or indirectly, by the work of the board. (Cr. #2989)
  - (c) Family Members .
    1. No more than one member of any family may serve on the board at the same time.
    2. No person may be appointed to the board if any member of that person's family is a municipal employee whose job is affected, directly or indirectly, by the work of the board.

3. No board member may continue to serve on the board after any member of his/her family becomes a City employee whose job is affected, directly or indirectly, by the work of the board.
  4. In this paragraph, "family" means: mother, father, spouse, brother, sister, and natural or adopted son or daughter.
- (d) Present and Former City Employees . (Am. #2937; #3414) No City employee may serve on the board. "City employee" does not include casual employees, including seasonal employees, who are employed by the City for less than 600 hours per year. No former City employee may serve on the board if that former employee's employment was terminated for cause. No other former City employee may serve on the board during the one-year period immediately following separation of the employee's employment with the City.
- (6) **PURPOSE AND DUTIES.** (Rep. & recr. #2989; Am. #3209)
- (a) Purpose . The Board of Appeals has been created for the purpose of exercising the following powers and performing the following duties authorized by §62.23(7)(e)(7), Wis. Stats., and assigned by the City Council:
1. To hear and decide appeals where it is alleged that there is error in any order, requirement, decision or determination made by an administrative official in the enforcement of the City of Beloit zoning ordinances and §62.23(7)(e), Wis. Stats.
  2. To authorize variances from the terms of the City of Beloit zoning ordinances when such action is compatible with the standards established by §62.23(7)(e)(7), Wis. Stats., and §§2.9.2 and 2.9.3 of the City of Beloit zoning ordinance for granting of such variance.
  3. Pursuant to §62.23(7)(e)(1), Wis. Stats., the City Council reserves unto itself the power to approve applications for special exceptions (conditional use permits) after submitting those applications to the Plan Commission for review and recommendation.
- (7) **MEETINGS.**
- (a) Regular Meetings . (Am. #2989; #3572) Regular meetings of the board shall be held at the location designated in the notice of the meeting, starting at a time no sooner than 6:30 p.m. and no later than 8:00 p.m., on the second Tuesday of each month.
- (b) Special Meetings . (Am. #3572) Special meetings shall be held at the location designated in the notice of the meeting. Special meetings may be called by the board chair or as the board may determine.
- (c) Notice of Meetings . Public notice of all meetings of the board shall be given in accordance with the open meeting law of the State of Wisconsin, §§19.81 to 19.97, Wis. Stats.
- (d) Agendas . A copy of each meeting agenda shall be sent to the City Clerk and to the City Manager's office by noon on the Wednesday preceding the meeting. This rule does not apply to agendas for special meetings called after noon on Wednesday. The agendas for special meetings called after noon on Wednesday shall be delivered to the City Clerk and the City Manager's office at least 24 hours before the special meeting.
- (e) Meals . No meals shall be provided at City expense for any meeting expected to last less than 4 hours.
- (f) Appearance and Testimony . All meetings shall be open to the public, except that the board may adjourn to closed session when authorized to do so by §19.85, Wis. Stats. Any person may testify at a hearing. Any party may appear in person or by a duly authorized agent or attorney.
- (8) **OFFICERS AND DUTIES.** (Ch. Ord. #9; Am. #3481) The board shall elect a chair, a vice chair and second vice chair annually at the board's first meeting in June. The board shall submit the chair's name to the City Clerk immediately after selection. The chair shall preside over all meetings of the board. The vice chair shall preside over the meetings in the chair's absence and the second vice chair shall preside in the absence of both the chair and vice chair. In the absence of the chair, vice

chair and second vice chair, a president pro tem shall be chosen from those present and shall preside. The presiding officer may compel the attendance of witnesses and administer oaths. The Planning and Building Services Division shall provide staff support services to the board, including secretarial services. The secretary shall record the minutes of each meeting, showing the vote of each member upon each 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 Department of Community Development. The secretary shall transmit a written copy of the minutes and records of the board to the City Clerk. The City Clerk shall be the custodian of the records of the board.

- (9) **QUORUM.** (Cr. #2989; Am. #3209) Five board members (including alternates empowered to act in the absence of board members) shall constitute a quorum sufficient to transact business. A fewer number may adjourn any meeting.
- (10) **VOTING.** (Cr. #2989; Am. #3209) The concurring vote of a majority of the members of the board (including alternates acting in their stead) shall be necessary to grant a variance or to reverse any order, requirement, decision or determination made by any administrative official in the enforcement of the City of Beloit zoning ordinances or §62.23(7)(e), Wis. Stats. The grounds of every such determination shall be stated. A majority vote shall be necessary to adopt any other motion, resolution or proposed action, except where a greater number is required by the board's rules of procedure or bylaws.
- (11) **RULES OF PROCEDURE AND BY-LAWS.** Board meetings shall be conducted in accordance with §62.34(7)(e), Wis. Stats., and in accordance with Robert's Rules of Order, Newly Revised to the extent that the latter rules do not conflict with the statute. The board may adopt by-laws or rules of procedure, as necessary, and shall submit them to the City Council for approval. If the board adopts rules of procedure or by-laws, the board shall review them annually. A copy of the board's approved by-laws shall be filed with the Division of Code Enforcement and the City Clerk.
- (12) **INSPECTION OF RECORDS.** The minutes of the meetings of the board shall be available for public inspection, except the minutes of closed sessions authorized by §19.85, Wis. Stats. All other records of the board shall be available for public inspection, unless exempt from disclosure under the Wisconsin Public Records Law, §§19.29 to 19.39, Wis. Stats.
- (13) **COMPENSATION.** All members shall serve without compensation, except that they shall be entitled to reimbursement of their actual and necessary expenses incurred in the discharge of their duties, excluding travel to and from meetings.
- (14) **ATTENDANCE.** Any member who is not planning to attend a meeting shall notify the board chair of that fact at least 24 hours in advance of the meeting. Any member who misses more than 25 percent of the regular meetings during any year of his or her term shall be subject to removal from the board.
- (15) **REMOVAL.** (Rep. & recr. #3572) Any member may be removed for cause. Prior to such action, a verified written complaint setting forth the facts that constitute cause shall be filed with the City Clerk. A verified written complaint may be filed by a City resident. The member charged in the complaint shall either resign or request a public hearing on the complaint before the Appointment Review Committee. If the member charged in the complaint requests a hearing, the Appointment Review Committee shall conduct a public hearing to determine whether the allegations of the complaint are true. At the conclusion of the hearing, the Appointment Review Committee shall enter written findings of fact and furnish copies of those findings to the member charged, the resident who filed the complaint, and to the board. The decision of the Appointment Review Committee may be appealed to the City Council. Any hearing conducted pursuant to this section shall comply with the provisions of §17.12, Wis. Stats.
- (16) **SUBCOMMITTEES.**
  - (a) Appointment. The board chair may appoint standing or temporary subcommittees, subject to confirmation by the board. Temporary committees shall dissolve no later than 6 months after the

creation, unless their term is extended by an affirmative vote of the majority of the board. Extensions may be granted in increments of 6 months or less.

- (b) Membership. Members of subcommittees need not be members of the board.
  - (c) Notice of Meetings. Public notice of all subcommittee meetings shall be given in accordance with the Wisconsin Open Meeting Law, §§19.81 to 19.97, Wis. Stats.
  - (d) Records. The subcommittee shall keep minutes of its meetings. The minutes of the meetings and other records of the subcommittee shall be open to public inspection, except as otherwise provided by the Wisconsin Public Records Law, §§19.29 to 19.39, Wis. Stats. Subcommittee minutes and records shall be filed with the parent committee.
  - (e) Application. Subsections (4)(d) and (e), (5), (6), (7)(d) and (e), (8), (12), (13), (14) and (15) of this section apply to subcommittees.
- (17) **APPEALS TO THE BOARD.** Appeals to the Board of Appeals may be taken by any person aggrieved or by any officer, department, board or bureau of the City affected by any decision of the enforcement 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 Appeals 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.
- (18) **APPLICATION FEES.** (Am. #2642; #2989) All applications for review and determination by the Board of Appeals shall be accompanied by a filing fee in an amount determined by City Council Resolution.
- (19) **STAY OF PROCEEDINGS.** An appeal shall stay all legal proceedings in furtherance of the action appealed from, unless the enforcement officer from whom the appeal is taken certifies to the Board of Appeals after the notice of appeal shall have been filed with the officer, that by reason of facts stated in the certificate a stay would, in the officer's opinion, cause imminent 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 Appeals or by a court of record on application, on notice to the officer from whom the appeal is taken, and on due cause shown.
- (20) **TIME FOR HEARING.** The Board of Appeals shall fix a reasonable time for the hearing of the appeal or other matter referred to it, and give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. In any action involving a listed property, as defined in §44.31(4), the board shall consider any suggested alternatives or recommended decision submitted by the Historic Preservation Commission.
- (21) **DECISIONS OF THE BOARD.** The board shall, in every case, reach a decision without unreasonable or unnecessary delay. All decisions and findings of the board shall, after hearing, be the final administrative decision and shall be subject to judicial review as provided in §62.23(7)(e), Wis. Stats.