

AN ORDINANCE creating a Board of Adjustment, providing for its membership and its duties, authority and procedure.

THE CITY COUNCIL OF THE CITY OF BELLEVUE DO ORDAIN AS FOLLOWS:

Section 1 - Pursuant to authority conferred by Chapter 44, Laws of 1935, State of Washington, and upon recommendation of the Bellevue City Planning Commission, a Board of Adjustment of the City of Bellevue, consisting of five (5) members, is hereby created.

Section 2 - MEMBERSHIP - The Board, consisting of five (5) members, shall be composed of electors residing within the city and having a familiarity with the Zoning Ordinance of the city and having an understanding of the benefits of planning to the municipality. The initial members, as well as vacancies occurring on said Board for any reason, shall be filled by appointment of the City Manager. Members shall be appointed for a term of four (4) years each, provided that the first appointments shall be so arranged that the terms of three (3) positions on said Board shall expire on each of the first three (3) years. Members of the Board may be removed by the City Manager for such cause or causes as he shall deem sufficient which shall be set forth in a letter filed with the City Council at least five (5) days prior to the removal of any Board member.

Section 3 - COMPENSATION - No Board member shall receive any salary from the city for his service on the Board of Adjustment.

Section 4 - JURISDICTION - The Board of Adjustment shall have the following powers.

a) To make and permit certain exceptions and variances to land use, regulations or restrictions in harmony with the general purpose and intent of the city ordinances when, owing to special conditions an enforcement of the provisions of the Zoning Ordinance of the city will result in unnecessary hardship and when practical difficulties render it difficult to comply with the provisions of said Zoning Ordinance.

b) To hear and grant applications for such exceptions to the term of any ordinance upon which such Board is required to make a determination for permits for special property uses.

c) To hear and decide appeals when it is alleged that there is an error in any order, requirement, decision or determination made by an administrative official in the enforcement of the city zoning, building or other ordinances granting an applicant a right to a review of the city official administering such ordinance.

Section 5 - RULES AND REGULATIONS OF THE BOARD - The Board of Adjustment shall adopt rules and regulations, in addition to the limitations and standards set forth by the City Council and consistent therewith for the making of applications for such permits, variances or reviews, for the conduct of its meetings and hearings, for the setting of times of hearings, and for the giving of notices thereof to officials whose decisions or functions will be affected thereby or to property owners, whose property rights or privileges may be altered by such action.

Section 6 - VARIANCES - Where practical difficulties exist rendering compliance with the provisions of the Zoning Ordinance impractical, and such compliance would create unnecessary hardships to the owner or user of land or buildings, the Board may grant a variance in harmony with the general purpose and intent of the Zoning or Building Ordinance by varying the application of rules, regulations or provisions of such ordinance relating to the use of land or structures and any construction, structural or equipment changes so long as the spirit and benefits of the ordinance will be preserved, public safety secured and substantial justice be done. The Board shall not vary any of the rules, regulations or provisions of the ordinance unless the Board, upon due and diligent investigation and after public hearing, shall find that all of the following conditions exist in such case, to-wit:

- 1) That the land or structure, for which the variance is requested, cannot be used reasonably and cannot yield a reasonable return if the use thereof is limited to those specified for the use district in which such land or structure is located.
- 2) That the variance in use, requested by the applicant or appellant, if established will not be of a general classification differing or inconsistent from the essential use provisions of the use district in which such land or structure is located.
- 3) That the plight of the owner is due to unique circumstances which are not general to the other lots, parcels or portions of the use district and are not the result of the owner's voluntary action.

Section 7 - HEARINGS ON VARIANCES - The Board shall set a date for hearings of applications for use variances, at which hearings, any interested person may appear and be heard subject to reasonable rules and regulations provided by the Board. Attendance thereof of city officials may be compelled by the Board. A report by the Planning Commission of the city may be required for the purpose of obtaining information as to the effect of the proposed variance upon the use, enjoyment and value of other land and buildings within the use district and such report may contain other pertinent information regarding the many existing or pre-existing conditions relating to topography, geology, traffic, utilities, existing or proposed land utilization and other factors relating to the comprehensive plan of the city. The Board shall make and record findings of fact germane to their decision on the applicant's request and shall record the names of interested persons appearing in support or in opposition to the application and of the respective position urged by each and shall especially find the facts relating to the conditions set forth in subparagraphs 1, 2 and 3 of Section 6.

Section 8 - SPECIAL PROPERTY USES - The Board shall have and exercise original jurisdiction in receiving, granting or denying all requests for such property uses where the ordinance granting such property uses requires an investigation and finding of certain conditions precedent to the granting of such particular use or where the ordinance regulating such use grants the powers of administrative determinations to the Board of Adjustment. Such administrative determinations shall be made after a public hearing, upon notice, as provided by the rules and regulations of the Board and upon a finding by the Board that the conditions required by the ordinance, upon which the special uses are permitted or regulated, have been fulfilled and after the building official of the city has found that the provisions of all other ordinances, with which compliance is required, have been fulfilled.

**Section 9 - APPEALS FROM OR REVIEW OF DECISIONS OF BUILDING OFFICIAL** - The Board shall have original jurisdiction to review any administrative interpretation of the provisions of the Zoning Ordinance made by the administrative official and any order, requirement, decision or determination relating thereto in the application of any specific provision of the Zoning Ordinance to any land or structure. The Board shall examine the files and records of the administrative official from whose determination the appeal is made and may receive additional evidence or testimony for the purpose of determining the reasonableness of such official's investigation or determination and upon such review and hearing, shall enter its findings as to the facts involved in the determination together with conclusions as to the right of the applicant or appellant for the relief sought, and shall enter an order affirming the action or interpretation of the building official or in directing further consideration or action by the building official, if the Board shall find his action to be insufficient or in error.

**Section 10 - APPLICANTS OR APPELLANTS** - Any person or persons whose property rights are affected by the determination of the building official, any officer, official of any department, board or commission of the city, whose duties and responsibilities are adversely affected by the decision of the other city officer, official, board or commission, or any person having a substantial property interest or right to possession of any land or building for which a special property use may be granted, or whose use and enjoyment of such land or building is rendered impractical by the application of an ordinance may apply or appeal to the Board for relief.

**Section 11 - PETITION** - Such applicant or appellant shall specify in writing, in such form as may be required by the rules of the Board, the facts in support of the application and shall contain such information as the Board shall deem necessary for the proper identification of the land and proposed use and the reason for claiming an error in the administrative determination of any city official. Persons objecting to the relief sought by the applicant or appellant would likewise set forth the facts in support thereof in writing and shall contain the signature of the person or persons opposing the petition. The petition or objection shall be submitted to the Board within the time provided in its rules of procedure.

**Section 12 - INITIATION OF ACTION ON BOARD'S MOTION** - The Board may initiate a review of a building official's interpretation of the provisions of any zoning or building ordinance on motion of the Board, passed by a vote of a majority of the members present at a meeting at which there is a legal quorum, and at a hearing held for such purpose pursuant to notice duly given to the building official and any owner of property which may be affected by such hearing, it may review such administrative interpretation and make and enter the findings of fact, conclusion or order in relation thereto.

**Section 13 - EFFECTIVE DATE OF ORDERS** - The order of the Board, granting or denying a special property use, variance or reviewing the administrative determination of a city official, shall become effective immediately upon the entry of such order in the official records of the Board unless the Board shall find that the making of such decision or order effective immediately would create a condition of practical impossibility or unnecessary hardship, in which case, the Board shall set a new and different effective date which, in no event, shall be more than thirty (30) days from the date of entry of such order. In exercising the above mentioned powers, the Board, in conformity with the provisions of this ordinance, may reverse or affirm wholly or partly and may modify the order, requirement, decision or determination appealed from and may make such order, requirements, decisions or determination as should be made in the premises.

The concurring vote of four (4) members of the Board shall be necessary to reverse any order, requirement, or determination of any administrative official and 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 14 - MEETINGS OF THE BOARD - The Board shall hold regular meetings at least once each month together with such meetings at such other times as the Board may determine. All regular board meetings shall be open to the public and shall be held at a place determined by the Board. The presence of three (3) members shall be necessary to constitute a quorum and the vote shall be recorded of each member on each question considered in proceedings before the Board.

Section 15 - NOTICES - Three (3) written notices of a pending hearing of the Board upon an application affecting the use of land or building, shall be posted in public places on or in the immediate vicinity of the land or structure in question, at least ten (10) days prior to the date of hearing of such application and shall contain a brief description of the nature of the pending application, the property involved and the date, time and place of such hearing.

Section 16 - PROCEDURE -

a) The time, within which appeals from an administrative determination shall be made to the Board, shall be prescribed by rules of the Board. Petitions or applications for hearings by the Board shall be filed with the clerk of the city unless the City Manager shall provide and designate a secretary of the Board, in which case, such filings shall be with such secretary. The Clerk of the City, or the Secretary of the Board, as the case may be, shall be the custodian of all records of the meetings, findings, conclusions and orders of the Board. All such records shall be open to the public. Copies of the appellant's or applicant's petition shall be filed with the appropriate building officials, commissions or boards.

b) Each applicant for a special use or variance, shall pay to the Clerk of the City, a fee in the sum of Ten Dollars to apply upon the city's costs in processing such request. Upon the filing of such application, the administrative official shall forthwith transmit to the Board, application papers and data constituting the administrative official's record relating to such property.

Section 17 - STAY - A request for a review by the Board shall stay all proceedings, entry of orders and furtherance of action from which the request for a review was taken, unless the official from whose determination the appeal is taken, certifies to the Board, after notice of appeal, that by reason of fact stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property or would create an unnecessary hardship to other property owners. In such case, such action shall not be stayed otherwise than by a restraining order lawfully issued by the Superior Court of King County.

Section 18 - APPEAL FROM BOARD TO COURT - Any person or persons, jointly or severally, aggrieved by an decision of the Board of Adjustment or any taxpayer may present to the Superior Court of the State of Washington for King County a petition setting forth that the decision of the Board is illegal, in whole or in part, specifying the grounds of alleged illegality. Such appeal shall be initiated by serving and filing such petition within thirty (30) days after entry of the order of the Board of Adjustment.

Upon notice of such appeal, the City Clerk or the Secretary of the Board shall prepare, at the expense of the appellant, a certified copy of the record or records of the city official and Board and file the same with the Clerk of the Superior Court for a review of the record of the Board of Adjustment to determine whether said Board acted capriciously, arbitrarily, fraudulently or in excess of its authority.

Section 19 - EFFECT OF PARTIAL INVALIDITY - If any provision of this ordinance should be unconstitutional, all other parts, provisions and sections of this ordinance, not expressly so held shall continue in full force and effect.

Section 20 - EFFECTIVE DATE - This ordinance shall take effect and be in force five (5) days after its passage, approval and publication.

PASSED by the City Council on the 12<sup>th</sup> day of January, 1954, and signed in authentication of its passage this 12<sup>th</sup> day of January, 1954.

*Robert G. Gorse*  
Mayor

*W. M. F. F. F.*  
Councilman

*Scott Gardony*  
Councilman

Approved as to form:

*Kenneth A. Cole*  
City Attorney

(SEAL)

Attest:

*Helen R. Miller*  
City Clerk

FILED

CITY OF BELLEVUE

DATE January 13, 1954

CITY CLERK *Helen R. Miller*

January 14, 1954  
Date of Publication