

SUB-CHAPTER 2.28
BOARD OF ZONING APPEALS

SECTION

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14-2.2801. Creation¹. A Board of Zoning Appeals is hereby established, consisting of three (3) members who shall be citizens of the City of Alcoa, and shall be appointed by the Board of Commissioners. At least one member of said Board shall be a member of the Planning Commission of the City of Alcoa. One shall be appointed for a period of one (1) year, one for a period of two (2) years, and one for a period of three (3) years, and thereafter, as the terms herein fixed expire, they shall be appointed for a period of three (3) years. Any vacancies occurring in said Board shall be filled by appointment for the unexpired term by the Board of Commissioners. The compensation of the members of said Board shall be as fixed by the Board of Commissioners of the City of Alcoa. The Board of Zoning Appeals may appoint such employees and staff, and incur expenses as it may deem necessary for its work. The expenditures of said Board shall be within the amounts appropriated for such purposes by the Board of Commissioners of the City of Alcoa. (Ord. No. 338, Sec. 17 (A))

14-2.2802. Organization. When said Board has been duly appointed, they shall take an oath as prescribed by the Charter of the City of Alcoa, applicable to all other officials of said City. Said Board of Zoning Appeals shall elect its Chairman and Secretary. The terms of the Chairman and Secretary shall be one year with eligibility for re-election. (Ord. No. 338, Sec. 17 (B))

14-2.2803. Procedure. Meetings of the Board of Zoning Appeals shall be held at the call of the Chairman, and at such other times as the Board may determine. Such 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. A majority of said Board shall constitute a quorum for the transaction of business, and a majority of the membership of said Board shall be necessary for the adoption of any resolution or the passage of any motion. All meetings of the Board shall be open to the public. The Board shall adopt rules of procedure and shall keep records of appeals and action thereon, and its reasons for the decision, which shall be a public record. (Ord. No. 338, Sec 17 (C)),

¹See also ordinance No. 865, of record in the Recorder's Office, which does not expressly amend this municipal code and, therefore, has not been included herein. However, it provides for zoning the area adjacent to and outside the City but inside the City's planning jurisdiction. Ordinance No. 865 also provided a separate Board of Zoning appeals for the area outside the City.

14-2.2804. Appeals: how taken. Within (10) days from the notification of the Building Inspector's decision, an appeal to the Board of Zoning Appeals may be taken by person, firm, or corporation aggrieved, or by any governmental officer, department, board, or bureau affected by any decision of the Building Inspector based in whole or in part upon the provisions of this ordinance. Such appeal shall be taken by filing with the Building Inspector on the form provided a notice of appeal, specifying the grounds thereof.

The Building Inspector shall transmit to the Board of Appeals the application and all papers constituting the record upon which the action appealed was taken. The Board of Appeals shall fix a reasonable time for the hearing or the appeal, give due notice to the parties of interest, and decide the same within a reasonable time. Upon the hearing any person or party may appear in person or by agent or by attorney. (Ord. No. 338, Sec. 17 (D))

14-2.2805. Powers. The Board of Zoning Appeals shall have the following powers:

(1) Administrative review: To hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, permit, decision, determination or refusal made by the Building Inspector, Planning Commission or other administrative official in the carrying out or enforcement of any provision of this ordinance.

(2) Special exceptions. To hear and decide appeals for special exceptions as specified in this ordinance, and for appellate decision on any special questions upon which the Planning Commission is authorized to pass under this ordinance.

(3) Variance. To hear and decide appeals for variance from the terms of this ordinance, but only where by reason of exceptional narrowness, shallowness or shape of a specific piece of property, which at the time of the adoption of this ordinance, was a lot of record; or where, by reason of exceptional topographic conditions or other extraordinary or exceptional situation or condition of a piece of property, the strict application of the provisions of this ordinance would result in practical difficulties to or undue hardship upon the owner of such property, provided that such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of this ordinance. In granting a variance the Board of Appeals may attach thereto such conditions regarding the location, character and other features of the proposed building, structure, or use as it may seem advisable in furtherance of the purpose of this ordinance. (Ord. No. 338, Sec. 17 (E))

14-2.2806. Special exceptions. The following procedure is established to integrate properly the uses permitted as special exception with other land uses located in the district. These uses shall be reviewed by the board and authorized or rejected under the following procedure:

(1) Application. Prior to the board considering any application for a special exception, the applicant shall submit a nonrefundable sum of money in accordance with the schedule of fees available in the Codes and Planning office in the Alcoa Municipal Building.

(2) Public hearing. Upon application, the board shall give not less than seven (7) days notification of a public hearing. Such notice giving time and place of such hearing shall be published in a paper of general circulation within the City of Alcoa.

(3) General review standards. In the review of a special request, the Alcoa Board of Zoning Appeals, in the exercise of its administrative judgment, shall be guided by adopted plans and policies, including but not limited to, the Alcoa Land Use Plan, Alcoa Zoning Ordinance, Alcoa Municipal Code, and the following general standards:

- a. The use is consistent with adopted plans and policies, set forth above;
- b. The use is in harmony with the general purpose and intent of the zoning regulations.

c. The use is compatible with the character of the neighborhood where it is proposed and with the size and location of buildings in the vicinity.

d. The use will not negatively impact adjacent property by noise, lights, fumes, odors, vibration, traffic, congestion or be incompatible with other development in the surrounding area;

e. The use is not of a nature or so located as to draw substantial additional traffic through residential streets;

f. The specially permitted use meets all city requirements with regard to approval of the hydrology, engineering, building codes, landscaping/buffering, signage, etc.;

g. The specially permitted use meets all requirements set out in the particular zoning classification in which the use is to be located; and,

h. Approval or denial. The Board of Zoning Appeals may approve a development, when applicable, or a special exception where it can be shown that the proposed plan or use is in harmony with the general purpose and intent of the zoning ordinance, the Alcoa Land Use Plan and any other adopted land use plans, and is reasonably necessary for the convenience and welfare of the community. The Board of Zoning Appeals may deny a development plan, where applicable, or a special exception where the above cannot be shown or where it can be shown that approval would have an adverse impact on the character of the neighborhood in which the site is located. Whereas a use may be appropriate in one location and inappropriate in another location in the same zoning district, the Board of Zoning Appeals shall be guided by the policies of the Alcoa Land Use Plan and any other adopted plans in the exercise of its administrative judgment about the location and appropriateness of special exception uses. The Board of Zoning Appeals shall state conditions of approval or denial, including substantive, factual statements of necessity and appropriateness or of adverse impact, with such information being included in the minutes of the Board of Zoning Appeals meeting where decisions are made.

(4) Restrictions. In the exercise of its approval, the board may impose such conditions regarding the location, character, or other features of the proposed use of buildings, as it may deem advisable in the furtherance of the general purposes of this ordinance.

(5) Effective date of approval – issuance of permit.

a. Board approval shall become effective 60 days from the date of the board meeting at which approval is granted.

b. No building permit shall be issued prior to the date of approval unless upon request by the applicant and at the applicant's own risk.

c. The building permit shall be issued subject to all conditions and requirements stipulated by the board.

(6) Validity of plans. All plans, conditions, restrictions and rules made a part of the approval of the board shall constitute certification on the part of the applicant that the proposed use shall conform to such regulations at all times.

(7) Time limit and notification. All applications for special exception shall be decided within 45 days of the date of application, and the applicant shall be provided with a written notice of approval or denial.

(8) A special exception that has been approved by the board shall become invalid one year after the date of approval, unless:

a. A certificate of occupancy has been obtained from the chief building official in compliance with the City of Alcoa building code; or

b. A certification has been obtained from the city manager, or his designee, that the applicant has satisfactorily completed all city requirements that were stipulated as a part of the approval of the special exception; or

c. An extension of time, not to exceed six (6) months, has been granted by the city manager, or his designee. The city manager, or his designee, may grant

or deny a request by an applicant for an extension of time not to exceed six (6) months in order to complete requirements that were stipulated as a part of the special exception. An application for an extension shall be submitted, by the applicant, in writing to the city manager, prior to the date of expiration of the special exception. The city manager, or his designee, may deny a request for an extension of time if he finds that there has not been a diligent effort made by the applicant to meet the requirements that were stipulated when the special exception was approved. In granting a request for an extension of time, the city manager (or his designee) shall not change the requirements that were stipulated when the special exception was approved. The city manager, or his designee, shall in writing notify the applicant requesting an extension of time of his/her decision to either grant or deny the request and his reasons therefore, within seven (7) days of the receipt of the request for an extension. A special exception shall become null and void upon:

1. The expiration of one (1) year; or
2. The denial of a request for an extension of time by the city manager or his designee; or
3. The expiration of an extension of additional time, not to exceed six (6) months, granted by the city manager or his designee.