

**AN ORDINANCE TO AMEND SECTION 5.100, SUBSECTION (A) OF SECTION
5.101, AND SECTION 5.103 OF CHAPTER 50 OF TITLE V
OF THE CODE OF THE CITY OF EAST GRAND RAPIDS**

THE CITY OF EAST GRAND RAPIDS ORDAINS:

Section 1. Section 5.100 of Chapter 50 of Title V of the Code of the City of East Grand Rapids is hereby amended in its entirety to read as follows:

5.100 Creation and Membership.

- A. A Zoning Board of Appeals is hereby established having the powers, duties, and membership which are set forth in Act 110 of Michigan Public Acts of 2006, as amended, and in accordance with the City Charter.
- B. The Zoning Board of Appeals shall consist of seven members appointed by the City Commission who are electors residing in the City, one of whom shall be a member of the Planning Commission, and one of whom shall be a member of the City Commission, plus two alternate members.
- C. Members shall be appointed for terms of three years, except that the terms for the Planning Commission or City Commission members shall be the same as that for their office. Members can be reappointed. Terms shall be staggered so that at least two members are up for appointment every year. Of the initial members, some shall be appointed for a one year term, some for a two year term, and some for a three year term so that the terms of approximately 1/3 of the members will expire each year. All vacancies for unexpired terms shall be filled for the remainder of the term.
- D. The City Commission shall appoint two alternate members to serve on the Zoning Board of Appeals, who shall also serve for three year terms. The alternate members shall have the same voting rights as a regular member and shall sit as regular members of the Zoning Board of Appeals in the absence of a regular member, or for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. Once an alternate has been called to serve in a particular case, the alternate shall continue to participate in that case until a decision has been rendered.
- E. Members of the Zoning Board of Appeals or alternates shall be removable by the City Commission for malfeasance, misfeasance, or nonfeasance in office upon filing of written charges and following a public hearing.

- F. A member shall disqualify themselves from a vote in which the member has a conflict of interest. Failure of a member to disqualify themselves from a vote in which the member has a conflict of interest constitutes malfeasance in office. Any Planning Commission or City Commission member on the Zoning Board of Appeals shall abstain from any vote on an issue which they had previously voted upon as a member of the Planning Commission or the City Commission.

Section 2. Subsection A of Section 5.101 of Chapter 50 of Title V of the Code of the City of East Grand Rapids is hereby amended in its entirety to read as follows:

- A. Meetings of the Zoning Board of Appeals shall be held at the call of the Chairperson and at other times as the Zoning Board of Appeals may specify in its Rules of Procedure.

Section 3: Section 5.103 of Chapter 50 of Title V of the Code of the City of East Grand Rapids is hereby amended in its entirety to read as follows:

5.103 Decisions

- A. The concurring vote of majority of the members of the Zoning Board of Appeals is necessary to reverse an order, requirement, decision or determination of the administrative official or body or to decide in favor of the applicant on a matter upon which the Zoning Board of Appeals is required to pass under the zoning ordinance, or to grant a variance to the zoning ordinance. A copy of the Board's decision shall be transmitted to the applicant or appellant, and to the Director of Public Works. Such decision shall be binding upon the Director of Public Works and observed by him or her, and he or she shall incorporate the terms and conditions of the same in the permit to the applicant or appellant whenever a permit is authorized by the Board. The decision of the Board shall be final.
- B. The Board, after public hearing, shall have the power to decide applications, filed as hereafter provided, for variances:
 - (1) Where it is alleged by the appellant that there is error or misinterpretation in any order, requirement, decision, grant or refusal made by the Director of Public Works or other administrative officer in the carrying out or enforcement of the provisions of this chapter;
 - (2) Where by reason of the exceptional narrowness, shallowness or shape of a specific piece of property, or by reason of exceptional topographic conditions, or other extraordinary situation or condition of the land, building or structure, or of the use or development of property immediately adjoining the property in question, the literal enforcement of the requirements of this

chapter would involve practical difficulties or would cause undue hardship; or

- (3) Where there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of this chapter relating to the construction, structural changes in equipment, or alterations of building or structures or the use of land, building or structures so that the spirit of this chapter shall be observed, public safety secured and substantial justice done.

C. A dimensional variance from the provisions or the requirements of this Chapter shall be authorized only upon an affirmative finding by the Board, based upon competent material and substantial evidence on the whole record, that the following criteria are satisfied:

- (1) Special conditions or circumstances exist which are peculiar to the land, structure or building involved and which are not generally applicable to other lands, structures or buildings in the same district;
- (2) The special conditions or circumstances do not result from the actions of the applicant;
- (3) Authorizing a variance will not be of substantial detriment to the neighboring property and will not be contrary to the spirit and purpose of this chapter; and
- (4) A nonconforming use of neighboring lands, structures or buildings shall not, in itself, be considered grounds for granting a variance.

D. A use variance request shall be subject to the following requirements and criteria. In addition to the information required for dimensional variance requests, an application for a use variance shall include a plan drawn to scale detailing the specific use and improvements proposed by the applicant, and a summary of the facts which support each of the following conclusions:

- (1) Applicant's property cannot be used for the purposes permitted in the zoning district;
- (2) Applicant's plight is due to unique circumstances peculiar to his property and not to general neighborhood conditions;
- (3) Applicant's suggested use would not alter the essential character of the area;
- (4) Applicant's problem has not been self-created;

(5) Unavailability of administrative relief which may afford reasonable use of applicant's property.

E. Any party aggrieved by a decision of the Zoning Board of Appeals may appeal to the Circuit Court.

Section 4. This Ordinance shall be effective on January 1, 2022.

Section 5. Notice of adoption of this Ordinance shall be published within ten days of its enactment by a publication of a digest, summary, or statement of purpose of the Ordinance as provided by Chapter VII, Section 7.5 of the Charter of the City of East Grand Rapids.

NOTICE OF ADOPTION OF ORDINANCE BY THE CITY OF EAST GRAND RAPIDS:

Notice is hereby given that on September 20, 2021, the City Commission of the City of East Grand Rapids adopted an ordinance amendment with an effective date of January 1, 2022, restating Sections 5.100, 5.101(A) and 5.103 of Chapter 50 of Title V of the City Code. The purpose of these amendments was to change the membership of the Zoning Board of Appeals, to clarify the time in which a decision has to be made, and to set forth the standards for both a dimensional variance and a use variance. The full text of the ordinance is available for inspection by and distribution to the public at the office of the City Clerk. No further or additional publication of this ordinance is required or contemplated.

City of East Grand Rapids

By _____
Karen K. Brower
City Clerk

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