

**ARTICLE 24
BOARD OF APPEALS**

50.2400 Board of Appeals. An appeal board, to be known as the Harbor Springs Appeal Board and to consist of six (6) regular members and two (2) alternates, is hereby created. The members of the Appeal Board shall be selected by the City Council. Each member and alternate shall hold office for a term of three (3) years, and additionally shall hold office until his successor is selected. The Board shall annually select its chairman. The City Clerk shall serve as a secretary of the Board. The Board shall adopt its own rules of procedures and keep a record of its proceedings, showing the action taken upon each matter considered.

Meetings of the Board shall be held at such times and places as may be designated by the Clerk. The Clerk is authorized to call such meetings at any time when matters are pending requiring attention by the Board. The Clerk shall call each meeting whenever:

- (1) A meeting is to be held as previously determined by the Board;
- (2) The Clerk is so instructed by the chairman; or
- (3) The Clerk is so instructed in writing by any other three (3) members of the Board. Four (4) members shall constitute a quorum.

50.2401 Appeals. Any decision of the Building Inspector may be appealed to the Board of Appeals by any person aggrieved or by any office, department, board, or bureau of the City affected by any decision of the Building Inspector within such time as shall be prescribed by the Board of general rule. To effect such appeal, the appellant shall file with the Building Inspector and with the Board of Appeals, on blanks to be furnished by such Inspector, a written notice of appeal specifying the grounds thereof. The Building Inspector shall forthwith transmit to the Board all the papers constituting

the record upon which the action appealed from was taken.

50.2402 Stay. An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Building Inspector certifies to the Board of Appeals, after the notice of appeal shall have been filed with him, that by reason of facts stated in the certificate, a stay would in his opinion cause imminent peril to life or property, in which case proceedings shall not be stayed except by a restraining order which may be granted upon due cause shown, by the Board of Appeals or by the Circuit Court, upon application and following timely notice thereof to the Building Inspector.

50.2403 Powers and Duties.

(1) The Board of Appeals referred to in this Section as "Board" shall fix a reasonable time for the hearing of the appeal within thirty (30) days from the date of filing thereof, and give due notice thereof to the parties and to the owners of record of real estate situated within three hundred (300) feet of the premises in question, and to the occupants of all single and two- (2) family dwellings within three hundred (300) feet of the premises in question, such notice to be delivered personally or by mail addressed to the respective owners and tenants at the address given in the last assessment roll, according to the then records of the City Assessor, not less than ten (10) days prior to the date of the hearing. If the tenant's name is not known, the term "occupant" may be used. The Board shall decide the same within a reasonable time. At the hearing any person may appear in person or by agent or attorney.

(2) Where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of this Chapter, the Board of Appeals shall have power in passing upon appeals to vary or modify any of its rules, regulations or provisions relating to the construction, structural changes in equipment or alterations of buildings or structures, or the use of land, buildings or structures, so that the spirit

of this Chapter shall be observed, public safety secured and substantial justice done.

(3) The Board shall hear and decide appeals de novo and review on appeal any order, requirement, decision or determination made by the Zoning Administrator in enforcement or application of this Chapter, and upon such appeal may reverse or affirm, wholly or partly, or modify the order, requirement, decision or determination appealed from and shall make such order, requirement, decision or determination as in its opinion ought to be made in the premises, and to that end shall have all the powers of the officer from whom the appeal is taken.

(4) The concurring vote of two-thirds (2/3) of all Board members shall be necessary to reverse or modify any order, requirement, decision or determination of the Zoning Administrator or to decide in favor of the appellant upon any matter upon which it is required to pass, or to effect any variation in this Chapter.

50.2404 Procedures for Variances.

(1) Any application for a variance must be signed by the owner(s) of the property which would be affected by the variance, or the agent of the owner(s). If the application is signed by an agent of the owner(s), the agent must specifically state in the application that he or she has full authority to represent the owner(s) of the property. The owner(s) must acknowledge that the owner(s) understands that if a variance is granted, it becomes permanently attached to the land, and may not be transferred by the owner(s) to any other property.

(2) A variance granted by the Zoning Board of Appeals shall expire: (a) if construction of the project described in the application for variance has not begun within one year from the date the variance is granted; or, (b) if the property described in the application for variance is not used under the terms of the variance within said year; or, (c) if construction

of the project described in the application for variance is timely begun, but has not been completed within two years from the date of the granting of the variance. If the variance shall expire as aforesaid, the variance approval shall become null and void, unless renewed or extended by specific action of the Zoning Board of Appeals. If the variance is not extended before its expiration, then a new application and a new variance shall be required.

(3) Any variance granted by the Zoning Board of Appeals prior to September 27, 1993, being the date of adoption of this ordinance, shall be considered as if the variance was granted on the said date of adoption of this ordinance, and if work is not commenced or completed as set forth in Section 2 hereof, or use of the property is not begun as described in the application for variance, said variance shall be deemed to have lapsed, as provided in Subsection (2).]²²