
28O. Administration and Enforcement

28O.1301 Generally

The administration of this ordinance is vested the following three (3) offices of the City of Madison:

- A. Zoning Administrator
- B. Zoning Board of Appeals
- C. City Plan Commission

28O.1302 Zoning Administrator

(1) Establishment

- A. This section establishes the office of the Zoning Administrator of the Department of Planning and Community and Economic Development.
- B. The Zoning Administrator is responsible to the Director of the Neighborhood Preservation and Inspection Division or her/his designee.
- C. The Director of the Neighborhood Preservation and Inspection Division is assigned the same powers as the Zoning Administrator.

(2) Duties

The Zoning Administrator shall enforce this ordinance, and shall exercise the duties listed below to determine compliance with this Chapter and to support is enforcement or administrative functions:

- A. Issue all zoning certificates (see (3) below).
- B. Issue all certificates of occupancy.
- C. Approve all site plans.
- C. Inspect uses, land, buildings, or structures.
- D. Maintain permanent and current records of this ordinance, including but not limited to all maps, amendments, conditional uses, variances, appeals, zoning certificates, certificates of occupancy, and applications for approval.
- E. Provide and maintain public records relative to all matters arising out of this ordinance.
- F. Receive, file and forward to the City Clerk all applications for amendments to this ordinance.
- G. Receive, file and forward to the City Plan Commission all applications for conditional uses.
- H. Receive, file and forward to the Zoning Board of Appeals all applications for appeals, variances or other matters on which the Zoning Board of Appeals is required to act under this ordinance.
- I. Initiate, direct and review, from time to time, a study of this Chapter.

- J. Make recommendations to the City Plan Commission about revisions to this Chapter.
- K. Refer violations of this Chapter to the City Attorney for prosecution. Copies of the violation report on floodplain regulations shall be sent to the Southern District office of the Wisconsin Department of Natural Resources.
- L. Review and interpret deed restrictions which were initiated at the request of a City agency in order to relate the restrictions to uses of land authorized in this Zoning Code.
- M. Provide substantial damage assessment for floodplain structures.
- N. Maintain floodplain records, including floodplain maps, all water surface profiles, and substantial damage assessment reports.
- O. Submit copies of applications for amendments, variances and appeals to the floodplain regulations and floodplain maps to the appropriate Regional Office of the Wisconsin Department of Natural Resources, and the Federal Emergency Management Agency.
- P. Submit copies of any adopted amendments, any decisions by the Zoning Board of Appeals on appeals and variances to the floodplain regulations and floodplain maps within ten (10) days of the decision, any case-by-case analyses of proposals in floodplain areas, an annual summary report of the number and types of zoning actions taken and substantial damage assessment reports to the appropriate District Office of the Wisconsin Department of Natural Resources.
- Q. Take other actions that are assigned under other provisions of this Chapter.

(3) **Issuance of Zoning Certificates**

Moved "Zoning Certificates" from 28M, Procedures, since they are a function of zoning administration.

- A. A zoning certificate is required before any permit relating to the use of land, buildings or structures is issued by any officer, department or employee of the City.
- B. Any permit or certificate of occupancy issued in conflict with this Section is null and void.
- C. This section does not apply to:
 - 1. lots without buildings or structures; and
 - 2. lots used for public recreation purposes.
- D. The Zoning Administrator will approve or deny the zoning certificate application. Approval indicates that the proposed use of land, buildings or structures and any future proposed buildings or structures comply with all of the provisions of this Chapter.

(4) **Appeals to Decisions of the Zoning Administrator**

Any decision of the office of the Zoning Administrator may be appealed to the Zoning Board of Appeals, as specified in Section 28O.1305(5) below.

28O.1303 Common Council

The Common Council is the governing body of the City of Madison. The Common Council is the final decision maker for text or map amendments to this Chapter. Refer to MGO Chapter 2 for the Standing Rules for the Government of the Common Council.

28O.1304 Plan Commission

(1) Establishment

The City Plan Commission is created by Chapter 16 of the City Code.

(2) Jurisdiction

The City Plan Commission has the following jurisdiction and authority:

- A. To hear and act upon all applications for conditional uses.
- B. To hear and make recommendations about applications for amendments to this Chapter to the Common Council.
- C. To hear and decide disputes concerning the district boundaries shown on the official floodplain zoning map.
- D. To hear and act upon all other matters referred to it upon which it is required to act under this Chapter.

28O.1305 Zoning Board of Appeals

(1) Establishment

This section establishes the Zoning Board of Appeals as authorized by W.S. § 62.23(7)(e).

(2) Membership and Administration

- A. The Zoning Board of Appeals has five (5) members appointed by the Mayor subject to confirmation by the Common Council.
- B. Each member of the Zoning Board of Appeals serves for a staggered term of three (3) years.
- C. The members of the board are removable by the Mayor for cause upon written charges and after public hearing.
- D. The Mayor shall designate one of the members as chairman.
- E. The board may employ a secretary and other employees.
- F. Vacancies shall be filled for the unexpired terms of members whose terms become vacant.
- G. The Mayor shall appoint, for staggered terms of three years, two alternate members in addition to the five standing members. Annually, the Mayor shall 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 such 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. The above provisions, with regard to removal and the filling of vacancies, shall apply to the alternates.

(3) Jurisdiction

The Zoning Board of Appeals has the following jurisdiction and authority:

- A. To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the Zoning Administrator in the enforcement of this Chapter.
- B. To hear and act upon applications for variances from the terms provided in this Chapter (refer to §28M.1105 for procedures and standards).
- C. To hear and decide appeals where it is alleged there is error in a determination made by the Director of the Department of Planning and Community and Economic Development.
- D. To hear and act upon all other matters referred to it upon which it is required to act under this Chapter.

(4) Meetings and Rules

- A. Meetings of the Zoning Board of Appeals shall be held at the call of the chairman and at such other times as the Board may determine.
- B. The chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses.
- C. All meetings of said board, including all deliberations on any appeal prior to reaching a decision thereon, shall be open to the public.
- D. The board shall keep minutes of its proceedings, showing the vote for each member upon each question or, if absent or failing to vote, indicating such fact. The board shall also keep records of its examinations and other official actions. All of the Board's minutes and records shall be immediately filed in the office of the Board and shall be a public record.
- E. Any person may appear and testify at a hearing, either in person or by duly authorized agent or attorney.
- F. The board shall adopt its own rules of procedure not in conflict with this ordinance or with the applicable Wisconsin Statutes.
- G. The Board may select or appoint any officer that it deems necessary.

(5) Appeals to Decisions of the Zoning Administrator

Appeals to the Zoning 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 Zoning Administrator.

- A. An appeal shall be taken within a reasonable time, as provided by the rules of the Zoning Board of Appeals.
- B. The applicant shall file a notice of appeal with the Zoning Board of Appeals. The notice of appeal must specify the grounds for the appeal, including a specific reference to the terms of this Chapter, state or federal law, or the state or federal constitution that the applicant believes were incorrectly applied.
- C. The Zoning Administrator shall transmit all the papers constituting the record upon which the action appealed from was taken to the Zoning Board of Appeals.
- D. Stay of Proceedings. An appeal shall stay all legal proceedings in furtherance of the action appealed from, unless the Zoning Administrator certifies to the Zoning Board of Appeals that by reason of facts stated in the certificate, a stay would in her/his opinion cause imminent peril to life or property. In that case, proceedings shall not be stayed unless the Zoning Board of Appeals or a court of record grants a restraining order on application. A restraining order requires the applicant to show due cause and to notify the Zoning Administrator.
- E. Notice. An appeal requires the following types of notice (see Section 28M.1101(5)):
- Mail – sent at least 10 days before the first public hearing
 - Publication - at least 7 days before the first public hearing
- F. Scheduling. The Zoning Board of Appeals shall fix a reasonable time for the hearing of the appeal.
- G. Rendering the Decision. The Zoning Board of Appeals, upon its findings, shall render a decision on the appeal within a reasonable time. The Board, upon the concurring vote of a majority of quorum, may reverse or affirm, wholly or partly, or may modify the order, requirements, decision or determination appealed from.
- H. Approval Criteria. The Zoning Board of Appeals may reverse or modify the decision appealed from if it determines that it is error based on the terms of this Chapter, a lawful condition of approval established under this Chapter, or a provision of a federal or statute or constitution.
1. For appeals concerning increases in regional flood elevation the Board shall:
 - a. Uphold the denial where the Board agrees with the data showing an increase in flood elevation. Increases equal to or greater than 0.01 foot may only be allowed after amending the flood profile and map and any appropriate legal arrangements are made with all adversely affected property owners.
 - b. Grant the appeal where the Board agrees that the data properly demonstrates that the project does not cause an

increase equal to or greater than 0.01 foot provided no other reasons for denial exist.

2. For disputes concerning floodplain district boundaries:

- a. If a floodplain district boundary is established by approximate or detailed floodplain studies, the map scale, and the flood elevations or profiles shall prevail in locating the boundary. If none exist, other evidence may be examined.
- b. In all cases, the person contesting the boundary location shall be given a reasonable opportunity to present arguments and technical evidence to the Zoning Board of Appeals.
- c. If the boundary is incorrectly mapped, the Zoning Board of Appeals should inform the person contesting the boundary location to petition the Common Council for a map amendment.

(6) Finality of Decisions of the Zoning Board of Appeals

All decisions and findings of the Zoning Board of Appeals are considered final administrative determinations, and are subject to judicial review as provided by law.

28O.1306 Fees

The following fees are required for applications under this Chapter. All fees shall be payable to the City Treasurer except where specified below.

Type of Action	Fee
Zoning map amendment, except for Planned Developments	\$800 plus \$100 for each acre of land in excess of one acre or fraction thereof, included in the proposed rezoning, up to a maximum of 20 acres or \$2,700
Zoning map amendment for Planned Development: General Development Plan or Specific Implementation Plan	\$1200 plus \$200 for each acre of land in excess of one acre or fraction thereof, included in the proposed rezoning, up to a maximum of twenty acres or \$5,000
Conditional use application for telecommunication facilities and antennas under Section ____	\$1,750
Conditional use application for: <ul style="list-style-type: none"> • multifamily complex • school • new construction or addition to existing building(s) that results in total square footage greater than 50,000 square feet in gross floor area and 25,000 or more square feet of gross floor area designed or intended for retail, hotel or motel use • new construction of a building, addition to any existing building or major alteration to the exterior face of a building in a [C4] [equivalent downtown] district 	\$800 plus one \$100 for each acre of land in excess of one acre or fraction thereof, up to a maximum of 20 acres or \$2,700

Type of Action	Fee
Other conditional use applications	\$500 plus \$100 for each acre of land in excess of one acre or fraction thereof, up to a maximum of 20 acres or \$2,400
Application for a demolition or removal permit	\$500, unless permit is issued in conjunction with a conditional use approval, in which case the fee for that application applies
Applications filed by the Common Council, the City Plan Commission, the Zoning Board of Appeals or pursuant to Sec. 13.48, Wis. Stats., the State of Wisconsin	No fee
Conditional use application filed by any nonprofit, nongovernmental organization registered with the Department of Financial Institutions or by any neighborhood organization registered with the City Department of Planning and Community and Economic Development. When a question arises as to whether an organization is nonprofit, nongovernmental the City Attorney shall investigate and make a determination.	No fee
Conditional use application for the following conditional uses: <ul style="list-style-type: none"> • Day care centers <i>[includes adult day care]</i> • Adaptive reuse of former public school or municipal buildings • Accessory greenhouses and swimming pool roofs or domes which infringe on required usable open space • Community service organizations; day treatment facilities • Development of parcels adjacent to landmarks, landmark sites or historic districts designated by the Landmarks Commission, provided that the use of the parcel is either a permitted or conditional use allowed in the zoning district in which the property is located 	No fee
Application for an extension to the time period for obtaining a building permit for a Planned Development under Sec. 28G.0506(6)	\$500
Request for a zoning certificate, excluding a Floodplain Statement or a Certificate of Occupancy	\$50
Request for a zoning letter, i.e., written documentation, by the custodian of the records, as to property zoning, permitted and conditional uses of the property and property status, or the existence of any outstanding orders on the property	\$10 for each item requested
Application for an appeal filed by, or on behalf of, the owner or owners of the property affected	\$200
Application for a variance filed by, or on behalf of, the owner or owners of the property affected	\$300
Building and site plan review fee. This fee is assessed by the Zoning Unit and collected by the Building Inspection Division of the Department of Planning and Community and Economic Development for the examination and approval of building plans and site plans of all new buildings and structures, additions and alternations, and for all other services authorized by the Common Council.	\$.02 per square foot, minimum fee of \$25.00. The fee for building square footage is determined based on floor area measurements taken from outside of the building at each floor level, including the basement.

28O.1307 Penalties

(1) In General

Penalties. Any person who violates any provisions of this chapter or fails to comply with any of its requirements shall upon conviction thereof be subject to a forfeiture of not less than one dollar (\$1.00) and not more than

one thousand dollars (\$1,000). Each day or portion thereof such violation continues shall be considered a separate offense.

(2) Penalty for Failure to Provide Notice

Failure to comply with the notice requirements for posting of signs (see Section 28.1101(5)) shall subject the applicant to a forfeiture of at least fifty dollars (\$50) and no more than one hundred dollars (\$100). Failure to post or mail these notices does not affect the validity of the action taken.

(3) Penalty for Failure to Comply With Demolition Standards

- A. Any person who fails to submit documentation of compliance with an approved reuse and recycling plan shall, upon conviction thereof, be subject to a forfeiture of not less than five hundred dollars (\$500) and not more than one thousand dollars (\$1,000). Each day or portion thereof such violation continues shall be considered a separate offense.
- B. Any person who fails to obtain a demolition or removal permit prior to the demolition or removal shall, upon conviction thereof, be subject to a forfeiture of not less than one thousand dollars (\$1,000) and not more than two thousand dollars (\$2,000). Each day or portion thereof such violation continues shall be considered a separate offense.