

Section 1-20 LEGAL

1-20.1 – Continuance and Repeal of Sections of Former Ordinance.

The provision of the Westfield Zoning Ordinance, so far as they are the same as those existing zoning ordinances, shall be construed as continuations thereof and not as new enactments, and a reference in a zoning ordinance which has not been repealed to provisions of zoning ordinances which are revised and re-enacted herein, shall be construed as applying to such provisions as so incorporated herein. All zoning ordinances or parts of zoning ordinances heretofore passed, inconsistent herewith, are hereby repealed.

1-20.2 – Validity.

The invalidity of any Section or provision of this Zoning Ordinance shall not invalidate any other Section or provision thereof.

1-20.3 – In Effect.

This revised Zoning Ordinance shall take effect twenty (20) days from and after passage. (9/3/87)

Section 1-30 BOARD OF APPEALS

1-30.1 – Composition, Terms and General Authority.

A Zoning Board of Appeals is hereby established to consist of 3 members to be appointed by the Mayor and confirmed by the City Council.

All members of the Board of Appeals shall be residents of the city. Appointments shall be for the term of 3 years, and arranged such that no more than one term may expire in any one year. First and second alternate members shall also be appointed, in the same manner as the appointment of regular members, each for a 2 year term, to serve in the case where a regular member is absent or unable to act. The Board of Appeals shall organize yearly, choosing a chair. Vacancies shall be filled for unexpired terms in the same manner as in the case of regular appointments. Any member may be removed for causes by the Mayor with the approval of a majority of the members of the City Council upon written charges and after a public hearing.

The Board of Appeals shall act on all matters within its jurisdiction under this ordinance in the manner prescribed in Sections 10 and 11 of Chapter 40A of the General Laws, as amended and subject always to the rule that it will give due consideration to promoting the public health, safety, convenience and welfare, encouraging the most appropriate use of land, and conserving property value, that it shall permit no building use, injurious, noxious, offensive or detrimental to a neighborhood, and that it shall prescribe appropriate conditions and safeguards in each case.

1-30.2 – Specific Duties.

The Board of Appeals shall, after conducting a public hearing, decide upon:

- 1. Appeals of administrative actions taken under this ordinance;*
- 2. Applications for special permits, where designated by this ordinance as the Special Permit Granting Authority; and*
- 3. Petitions for variances from the requirements established by this ordinance, but excepting those matters governing use classifications, which may be granted only in those cases where it is proved that:
 - a. Owing to circumstances relating to soil conditions, shape or topography of land or structures and especially affecting such land or structures, but not affecting generally the zoning district in which it is located a literal enforcement of the provisions of the ordinance would involve substantial hardship, financial or otherwise, to the petitioner;*
 - b. Desirable relief may be granted without substantial detriment to the public good; and*
 - c. Granting such relief would not nullify nor substantially derogate from the intent or purpose of such ordinance.**

(4/8/25)

1-30.3 – Procedure for Application.

Application shall be made in the manner established by the Board. In the case of an appeal, such application shall be filed with the City Clerk within 30 days of the date of the subject written order or decision. The Superintendent of Building, or other administrative official being appealed, shall also be notified and shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken.

1-30.4 - Public Hearing Notice.

The Board of Appeals shall require notice of the public hearing be given by publication in a newspaper of general circulation in the city once in each of two successive weeks, the first publication to be not less than 14 days before the hearing, and by the City Clerk's posting of such notices.

Notices shall also be sent by mail, postage prepaid, to the petitioner, abutters, owners of land directly opposite on any public or private street or way, owners of land within 300 feet of the property line as they appear on the most recent applicable tax list including those in another city or town, the Planning Board and Planning Boards of all abutting cities and towns. The foregoing shall be considered the parties in interest.

1-30.5 – Consultation.

The Board of Appeals shall consult with the Planning Board or any other city agency or board when it considers such necessary for a proper review of the matter before it. Said city agency or board shall forward its recommendation to the Zoning Board of Appeals and to the applicant within 35 days, with inaction by such agency or board deemed to constitute no exception taken to the matter.

1-30.6 – Other Procedural Requirements.

The Board of Appeals shall otherwise conform to all procedural requirements of Chapter 40A of the General Laws of the Commonwealth of Massachusetts and this ordinance regarding the general conduct of its business and the timely processing, hearing, decision rendering and filing of all special permits, variances and appeals, and matters within its jurisdiction.

1-30.7 – Decision, Notice & Appeal.

The decision upon a variance, special permit or appeal shall be made within 100 days after the filing of such application with the City Clerk and the Board. Such time for action may be extended by written agreement between the applicant and Board. Failure of the Board to act within the allowed time shall be deemed to be an approval of the applicant's request, and thus subject to the constructive grant provisions of Chapter 40A of the General Laws.

Notice of the decision shall be issued to the owner and to the applicant and parties in interest, and shall specify that appeals from the Board's order or decision may be made to the Superior Court, Land Court, or the Hampden County Housing Court, within 20 days of the filing of the order or decision with the City Clerk. A copy of any such court complaint shall also be filed with the City Clerk within the 20 days.

1-30.8 – Vote & Effect.

The concurring vote of all 3 members of the Board shall be necessary to reverse any order or decision of the Superintendent of Building or administrative official, or to approve any special permit, or to grant any variance in matters pertaining to this ordinance. A detailed record of the Board's proceedings, indicating the vote of each member, the reason for its decision, and official actions shall be filed within 14 days in the office of the City Clerk and shall be made available for public inspection.

No variance or modification, or renewal thereof, will take effect until a copy of the decision bearing the certification of the City Clerk that 20 days have elapsed, and that no appeal has been filed, unless it has been denied, is recorded in the Registry of Deeds. (11/24/25)

1-30.9 – Conditions.

The Board of Appeals may impose conditions, safeguards and limitations both of time and of use, including the continued existence of any particular structures but excluding any condition, safeguards or limitation based upon the continued ownership of the land or structures to which the variance pertains by the applicant, petitioner or any owner.

1-30.10 – Time Limits.

If the rights authorized by a variance are not exercised within one year of the date of grant of such variance they shall lapse, and may be reestablished only after notice and a new hearing. The Board may grant an extension of up to 6 months, if requested before such expiration, as provided for in Section 10 of Chapter 40A of the General Laws. The duration of any special permit shall be as described in Section 1-50.

(11/15/16)