

**CHAPTER 1302**  
**ZONING ADMINISTRATION**

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**CROSS REFERENCES**

Board of Appeals - Charter 350, 351

Building Department - Charter 510-513c

Special Permits - Zoning Chapters 1325,1326

Tourist Agency Signs - Bus. Reg. and Licenses - Zoning Chapter 375.06(c)

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**1302.01 PERMITS, LICENSES, CERTIFICATES, AND OTHER  
AUTHORIZATIONS TO CONFORM**

No board, agency, officer, or employee of the City shall issue, grant, or approve any permit, license, certificate, or other authorization, including special permits and adjustments by the Board of Appeals, for any construction, reconstruction, alteration, enlargement or moving of any building or for any use of any land or building that would not be in full compliance with the provisions of this Zoning Ordinance. Any such permit, license, certificate or other authorization issued, granted or approved in violation of the provisions of this Zoning Ordinance shall be null and void and of no effect, without the necessity of any proceedings for revocation or nullification thereof, and any permit, license, certificate, or authorization shall be unlawful, and no action shall be taken by any board, agency, officer, or employee of the City purporting to validate any such violation.

## **1302.02 BUILDING PERMITS AND LICENSES**

Every application for a building permit, a Certificate-of-Occupancy, or a license shall contain or be accompanied by such information as the Planning Board shall, by resolution, determine to be necessary for the enforcement of the provisions of this Zoning Ordinance. Such required information may include drawings and sketches when deemed appropriate.

## **1302.03 CERTIFICATES-OF-OCCUPANCY**

A. A Certificate-of-Occupancy shall be obtained from the Director of Inspections for any of the following:

1. Occupancy and use of a building hereafter erected or structurally altered.
2. Change in the use of an existing building, except to another use of the same type.
3. Occupancy and use of vacant land, except for any use consisting primarily of tilling the soil.
4. Change in the use of land, except to another use of the same type and except for any use consisting primarily of tilling the soil.
5. Any change in use of a non-conforming use.

No such occupancy, use, or change of use shall take place until a Certificate-of-Occupancy therefore shall have been issued by the Director of Inspections. No excavation for any building shall begin before application has been made for a Certificate-of-Occupancy for such building.

B. Written application for a Certificate-of-Occupancy for a new building or for an existing building which has been altered shall be made at the same time as the application for the building permit for such building. A Certificate-of-Occupancy shall be issued within five working days after a written request for the same has been made to the Director of Inspections after the erection or alteration of such building or part thereof has been completed in conformity with the provisions of this Zoning Ordinance. Pending the issuance of such certificate, a temporary Certificate-of-Occupancy may be issued by the Director of Inspections for a period not to exceed three months during the completion of any alterations which are required under the provisions of any law or ordinance. Such temporary certificate shall not be construed as in any way altering the respective rights, duties, or obligations or the owner or the City relating to the use or occupancy of the land or building or any other matter covered by this Zoning Ordinance, and such temporary certificate shall not be issued except under such restrictions and provisions as will adequately assure the safety of the occupants of the building or land and/or adjacent buildings and land.

C. Written application for a Certificate-of-Occupancy for the use of vacant land or for a change in the use of land or of a building, or for a change of non-conforming use, as provided herein, shall be made to the Director of Inspections. If the

proposed use is in conformity with the provisions of this Zoning Ordinance and of all other applicable laws and ordinances, the Certificate-of-Occupancy therefore shall be issued within five working days after the application for the same has been made.

D. Every Certificate-of-Occupancy shall state that the building or the proposed use of a building or land complies with all provisions of law and of this Zoning Ordinance and all other ordinances of the City. A Certificate-of-Occupancy shall be deemed to authorize, and is required for, both initial and continued occupancy and use of the building or land to which it applies and shall continue in effect as long as such building and the use thereof or of such land is in full conformity with the provisions of this Zoning Ordinance and any requirements made pursuant thereto. On the serving of notice of any violation of any of such provisions in Chapters 1325 and 1326, the Certificate-of-Occupancy for such use shall thereupon become null and void and a new Certificate-of-Occupancy shall be required for any further use of such building or land.

E. On written request by the owner, the Director of Inspections shall issue a Certificate-of-Occupancy for any use of a building or of land existing at the time of the adoption of this Zoning Ordinance, certifying, after inspection and investigation, the extent and kind of such use and whether the same conforms to the provisions of this Zoning Ordinance with respect to the district in which it is situated or is a non-conforming use.

F. A record of all Certificates-of-Occupancy shall be kept on file in the office of the Director of Inspections and copies shall be furnished, on request, to the Planning Board and to any person having a proprietary or tenancy interest in the building or land affected.

#### **1302.04 DUTIES OF DIRECTOR OF INSPECTIONS**

It shall be the duty of the Director of Inspections to enforce the provisions of this Zoning Ordinance. He shall maintain files of all applications for building permits and for Certificates-of-Occupancy and shall keep records of all building permits and Certificates-of-Occupancy issued by him, which files and records shall be open to public inspection. He shall keep a record of every identifiable complaint of a violation of any of the provisions of this Zoning Ordinance, and of the action taken consequent on each such complaint, which records shall be public records. He shall report to Council periodically, at intervals of not greater than six months, summarizing for the period since his last report all building permits and Certificates-of-Occupancy issued by him and all complaints of violation and the action taken by him consequent thereon. A copy of each such report shall be filed with the Planning Board at the same time that it is filed with Council.

### **1302.05 VIOLATIONS**

A. Any building erected, constructed, altered, enlarged, converted, moved, or used contrary to any of the provisions of this Zoning Ordinance, and any use of any land or building which is conducted, operated, or maintained contrary to any of the provisions of this Zoning Ordinance shall be and the same is hereby declared to be unlawful. The Director of Inspections may institute injunction, mandamus, abatement, or any other appropriate action to prevent, enjoin, abate, or remove such erection, construction, alteration, enlargement, conversion, or use in violation of any of the provisions of this Zoning Ordinance. Such action may also be instituted by any property owner who may be particularly damaged by any violation of this Zoning Ordinance. Upon his becoming aware of any violation of any of the provisions of this Zoning Ordinance, the Director of Inspections shall serve notice of such violations on the person or corporation committing or permitting the same, and if such violation has not ceased within such reasonable time as the Director of Inspections may specify, a new Certificate-of-Occupancy obtained as provided herein, and he shall institute such action as may be necessary to terminate the violation.

B. The remedies provided for in Chapters 1308 and 1325 are cumulative and not exclusive and shall be in addition to any other remedies provided by law.

### **1302.06 PENALTY**

Any person or corporation, whether as owner, lessee, principal, agency, employee or otherwise, who violates any of the provisions of this Zoning Ordinance or permits any such violation or fails to comply with any of the requirements thereof, or who erects, constructs, alters, enlarges, converts, moves or uses any building, or uses any land, in violation of any detailed statement or plan submitted by him and approved under the provisions of this Zoning Ordinance, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not more than \$100 or imprisoned not more than thirty days, or both. Such person or corporation shall be guilty of a separate offense for each and every day during any portion of which any violation of this Zoning Ordinance is committed, continued, or permitted by any such person or corporation, and shall be punishable therefore as provided herein.

### **1302.07 BOARD OF APPEALS; POWERS AND DUTIES**

The Board of Appeals shall have all the powers and duties prescribed by law, by the Charter of the City, and by this Zoning Ordinance, provided that none of the following provisions shall be deemed to limit any power of the Board of Appeals that is conferred by general law.

### **1302.08 INTERPRETATION BY BOARD OF APPEALS**

On appeals from an order, requirement, decision, or determination made by an administrative official, or on request by any official, agency, or board of the City to

decide any questions involving the interpretation of any provision of this Zoning Ordinance, including determination of the exact location of any district boundary, if uncertainty with respect thereto remains after exhausting the rules specified in this Chapter.

### **1302.09 SPECIAL PERMITS**

A. Special permits shall be allowed on application, supplementing an application to the Director of Inspections for a permit or a Certificate-of-Occupancy, as the case may be, for issuance of a special permit for any of the following uses:

A. Such uses specified in the schedule constituting Chapter 1306 of this Zoning Ordinance as requiring special permits in the particular district.

B. Any extension of a non-conforming use as provided in Chapter 1329.

B. Every special permit shall be in full conformity with the standards relating thereto that are specified in Chapters 1325 and 1326 and with any conditions, procedural or otherwise, that are specified in this Zoning Ordinance.

### **1302.10 ADJUSTMENTS**

A. Adjustments shall be allowed on appeal from an order, requirement, decision, or determination made by an administrative official to vary or adjust the strict application of any of the requirements of this Zoning Ordinance in the case of an exceptionally irregular, narrow, shallow, or steep lot or other exceptional physical condition as a result of which such strict application would result in practical difficulty or unnecessary hardship that would deprive the owner of the reasonable use of the land or building involved, but in no other case.

B. No adjustment in the strict application of any provisions of this Zoning Ordinance shall be granted by the Board of Appeals unless it finds:

- That there are special circumstances or conditions, fully described in the findings of the Board, applying to the land or building for which the adjustment is sought, which circumstances or conditions are peculiar to such land or buildings in the neighborhood and have not resulted from any act of the applicant subsequent to the adoption of this Zoning Ordinance, whether in violation of the provisions hereof or not.
- That, for reasons fully set forth in the findings of the Board, the aforesaid circumstances or conditions are such that the strict application of the provisions of this Zoning Ordinance would deprive the applicant of the reasonable use of such land or building and the granting of the adjustment is necessary for the reasonable use of the land or building, and that the adjustment as granted by the Board is the minimum adjustment that will accomplish this purpose.

- That the granting of the adjustment will be in harmony with the general purposes and intent of this Zoning Ordinance, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

C. In granting any adjustment, the Board of Appeals shall prescribe any conditions applying thereto that it may deem necessary or desirable.

### **1302.11 ORDINANCE TO BE STRICTLY CONSTRUED**

All provisions of this Zoning Ordinance relating to the Board of Appeals shall be strictly construed. The Board, as a body of limited jurisdiction, shall act in full conformity with all provisions of law and of this Zoning Ordinance and in strict compliance with all limitations contained therein.

### **1302.12 METHOD OF APPEALS**

All appeals and applications made to the Board of Appeals shall be filed with the Secretary of such Board at least two weeks before the date of the hearing and shall be in writing on forms prescribed by the Secretary, and such appeal or application, except those involving the interpretation of any provision of this Zoning Ordinance, shall be accompanied by a fee of \$75 (fee subject to change), no part of which shall be returnable. Each appeal or application shall fully set forth the circumstances of the case and shall refer to the specific provisions of the ordinance involved, and shall exactly set forth, as the case may be, the interpretation that is claimed, the use for which the appeal or adjustment is sought or the details of the adjustment that is applied for and the grounds on which it is claimed that the same should be granted. Each decision of the Board of Appeals shall be recorded in accordance with the standard forms adopted by the Board, and shall fully set forth the circumstances of the case and the findings on which the decision is based.

Every decision of the Board of Appeals shall be by resolution and each resolution shall be filed in the office of the Board, by case number, under one or another of the following headings: interpretation, special permits, or adjustments; together with all documents pertaining thereto. The Board of Appeals shall report to Council, periodically, at intervals of not greater than six months, summarizing all applications and appeals made to it since its last report and summarizing its decisions on such applications and appeals. A copy of each such report shall be filed with the secretary of the Planning Board and with the Director of Inspections at the same time that it is filed with the Council.