

Part II - ZONING ORDINANCE NO. 1144
APPENDIX A. - RESERVED

Part II - ZONING ORDINANCE NO. 1144 ^[17]

⁽¹⁷⁾ **State Law reference**— Municipal zoning, V.T.C.A., Local Government Code § 211.001 et seq.

Sec. 52-70. - Board of adjustment.

(a) There is hereby created a board of adjustment which shall consist of five (5) regular members, each to be appointed by a majority of the city council for a term of two (2) years.

(b) In addition to the five (5) regular members of the board of adjustment, three (3) alternate members of the board of adjustment, who shall serve in the absence of one or more regular members when requested to do so by the mayor or city manager, shall be appointed by a majority of the city council, so that all cases heard by the board of adjustment will always be heard by a minimum of four (4) members.

(c) Regular members and alternate members of the board of adjustment shall serve for a term of two (2) years and until their successors are appointed and qualified. Regular and alternate members of the board of adjustment may be removed from office for cause by the city council upon written charges and after a public hearing.

(d) The board of adjustment shall select from among its regular members a chairman, an acting chairman to act in the absence of the chairman, and a secretary.

(e) The board of adjustment may adopt rules to govern its proceedings and conduct of the business before the board. Any rule or rules shall be adopted by a resolution by the board entered upon the minutes of the board and a copy thereof shall be filed with the city secretary of the City of Irving.

(f) Meetings of this board shall be held at the call of the chairman, and at such other times as the board may determine. Such chairman or, in his absence, the acting chairman, shall administer oaths and compel attendance of witnesses. All meetings of the board shall be open to the public. The board shall keep minutes of its proceedings showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be filed in the office of the board and shall be a public record.

(g) Appeals to the board of adjustment may be taken by any person aggrieved, or by any officer, department, board or bureau of the City of Irving, affected by any decision of the building inspector or other administrative officer of the City of Irving. Such appeal shall be taken within fifteen (15) days after the date of the decision of the building inspector or other administrative officer has been rendered, by filing with the officer from whom the appeal is taken with the board of adjustment a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the board all the paper constituting the record from which the appeal was taken.

(1) A filing fee in accordance with the most recent schedule of fees adopted by the city council to help pay a part of the cost of legal publications, accumulating engineering data, and other administrative costs shall accompany each notice of appeal filed with the board of adjustments.

(2) An appeal shall stay all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the board of adjustment 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 such case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the board of adjustment or by a court of record on application of notice to the officer from whom the appeal is taken and on due cause shown.

(3) The board of adjustment shall fix a reasonable time for the hearing of an appeal, give notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person, by agent or by attorney.

(h) The board of adjustment shall have the following powers:

(1) To hear and decide appeals where it is alleged there is error in any order, requirements, decision, or determination made by an administrative official of the city in the enforcement of this ordinance, or in the enforcement of any applicable state law.

(2) To hear and decide special exceptions to the terms of this ordinance upon which the board is required to pass under this ordinance.

(3) To authorize upon appeal in special cases, such variances from the terms of this ordinance as will not be contrary to the public interest, where, owing to special conditions, the literal enforcement of the provisions of this ordinance will result in unnecessary hardship, so that the spirit of this ordinance shall be observed and substantial justice done.

(4) To permit in any district such modification of the requirements of the district regulations as the board may deem necessary to secure an appropriate development of a lot where adjoining such lot on two (2) or more sides there are lots occupied by buildings which do not conform to the regulations of the district.

(5) To authorize upon appeal in appropriate cases and subject to appropriate conditions and safeguards special exceptions to the terms of this ordinance in harmony with its general purpose and intent.

(6) To authorize upon appeal, in appropriate cases and subject to appropriate conditions and safeguards, a special exception in regard to section 52-56(a)(5)c. to allow the parking of a truck tractor in the front yard as follows:

a. A person may seek a special exception to section 52-56(a)(5)c. for the purpose of securing a special exception to allow the parking of a truck tractor in the front yard by filing a written request for a special exception with the department of building inspections and code enforcement on a form to be supplied by the city. Said special exception shall not run with the land but shall be granted to the owner, if the owner resides on the subject property and owns or leases the truck tractor, or to the tenant residing on the subject property if said tenant owns or leases the truck tractor, and shall expire at such time as the recipient of the special exception no longer resides on the subject property.

The procedure for special exceptions authorizing truck tractor parking in the front yard of a residential district shall be as follows:

1. The applicant shall complete a form which includes the street address, the name and address of the owner of the property, the name and address of the person making the application, if made by anyone other than the owner, together with a statement that the person making the application is authorized to act for the owner in making the application, the zoning district designation, and the motor vehicle registration number and license number.

2. The applicant shall erect and maintain a sign or signs provided by the community development department, upon the property for which a special exception has been requested which sign requirement shall be governed by section 52-62 of Ordinance No. 1144 except the sign or signs shall announce a special exception has been requested to allow a truck tractor to be parked on residentially zone land.

3. Before the tenth day before the hearing date, written notice of each public hearing before the zoning board of adjustment for a special exception authorizing truck tractor parking on a residentially zoned or used lot shall be sent to each owner, as indicated by the most recently approved municipal tax roll, of real property within two hundred (200) feet of the property on which a special exception is requested.

b. The zoning board of adjustment may grant a special exception to section 52-56(a)(5)c. and section 52-56(b) of this chapter relative to truck tractor parking in front yards if satisfaction of each the following criteria is demonstrated by the person requesting the special exception at the hearing before the board:

1. The safety of the neighborhood will not be compromised by the exception;
2. The value of the surrounding property will not be depreciated by the exception;
3. The aesthetics of the property on which the truck tractor is located will not be reduced by the exception;
4. The traffic in the neighborhood will not be further congested by the exception;
5. The exception will not increase the noise in the neighborhood;
6. There is no reasonable alternative to parking the truck tractor in the front yard;
7. There shall be no adverse impact on the quality of life in the neighborhood; and
8. The use of the truck tractor is the principal livelihood of the person residing on the property.

(i) In exercising its powers, the board of adjustment may, in conformity with the provisions of this ordinance and the provisions of articles 1011-A to 1011-J, both inclusive, of the 1925 Civil Statutes of Texas, as amended or as hereafter amended, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as should be made, and to that end shall have all the powers of the officer from whom the appeal is taken.

(1) The concurring vote of four (4) members of the board shall be necessary to revise any order, requirement, decision or determination of any such administrative official, or to decide in favor of the applicant or any matter upon which it is required to pass under the ordinance, or to effect any variation in the ordinance.

(2) Any person or persons, jointly or severally, aggrieved by any decision of the board of adjustment, or any taxpayer, or any officer, department, board or bureau of the City of Irving, may present to a court of record a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality.

Such petition shall be presented to the court within ten (10) days after the filing of the decision in the office of the board of adjustment.

(j) No appeal to the board of adjustment shall be allowed on the same piece of property or on the same or similar question prior to the expiration of one year from the date of a ruling of the board of adjustment on any appeal to such body unless other property in the same zoning area shall have, within such one-year period, been altered or changed by a ruling of the board of adjustment, in which case such change of circumstances shall permit the allowance of an appeal.

(Ord. No. 3358, § 4, 9-27-79; Ord. No. 5187, §§ 9, 10, 4-2-87; Ord. No. 7198, § 2, 1-22-98; Ord. No. 7376, § 1, 12-17-98; Ord. No. 8704, § 12, 9-21-06)

State law reference— Board of adjustment, V.T.C.A., Local Government Code § 211.008.