



## Legislation Text

---

**File #:** 12-1201, **Version:** 1

---

An Ordinance to Amend Section 5:517 of Chapter 61, Signs and Outdoor Advertising, Title V, of the Code of the City of Ann Arbor Section, to Shift the Responsibilities of the Sign Board of Appeals to the Zoning Board of Appeals (Ordinance No. ORD-12-32)

Approval of this ordinance amendment would shift the Sign Board of Appeals' responsibilities for hearing variance and appeals from the provisions of Chapter 61 (Signs and Outdoor Advertising) to the Zoning Board of Appeals.

The Sign Board of Appeals (SBA) is a seven-member citizen board, appointed by the Mayor and City Council, which hears appeals of administrative decisions and variances from Chapter 61. The Board is scheduled to meet monthly, although usually meets only several times per year. Last fiscal year, the SBA heard six appeals. The previous fiscal year, no appeals were filed.

Administration of the sign code was moved from Building to Planning staff in 2008. The idea of shifting the SBA's responsibilities to the Zoning Board of Appeals (ZBA), a nine-member board that meets monthly, was raised that same year as part of budget discussions. The thought was that by having the ZBA hear sign appeals and variances, Planning & Development Services administrative staff time spent to create separate notice and board packets would be eliminated.

Since the original proposal, the Zoning Ordinance Re-organization project (ZORO) has proposed that the sign code be incorporated into the Uniform Development Code. As such, sign requirements will become "zoning" requirements, and therefore appropriate topics for ZBA review.

Currently, the ZBA has the authority to hear appeals and grant variances for Chapter 47 (Streets), Chapter 59 (Off-Street Parking), Chapter 60 (Wetlands), Chapter 62 (Landscape and Screening), Chapter 63 (Storm Water Management and Soil Erosion and Sedimentation Control), Chapter 94 (Junkyards) and Chapter 104 (Fences). The requirements for all of these appeals and variances will be consolidated as part of the ZORO process.

The Planning Commission, at its meeting of September 6, 2012, recommended approval of this amendment.

Attachments: 9/6/12 Planning Staff Report and 9/6/12 Planning Commission Minutes

Prepared by: Wendy Rampson, Planning Manager

Reviewed by: Sumedh Bahl, Community Services Administrator

ORDINANCE NO. ORD-12-32

First Reading: October 1, 2012                      Published: November 15, 2012

Public Hearing: November 8, 2012                      Effective: November 25, 2012

AN ORDINANCE TO AMEND SECTION 5:517 OF CHAPTER 61, SIGNS AND OUTDOOR ADVERTISING, TITLE V, OF THE CODE OF THE CITY OF ANN ARBOR, TO SHIFT THE RESPONSIBILITIES OF THE SIGN BOARD OF APPEALS TO THE ZONING BOARD OF APPEALS

**The City of Ann Arbor ordains:**

Section 1. That Section 5:517 of Chapter 61 of Title V of the Code of the City of Ann Arbor be amended as follows:

**5:517. - Appeals.**

(1) *Appointment of Board of Sign Appeals.* The Board of Sign Appeals (hereinafter "Board") shall consist of 7 members appointed by the City Council. At the time the Board is first appointed there shall be 3 appointments for a period of one year, 2 appointments for a period of 2 years and 2 appointments for a period of 3 years. Thereafter, all appointments shall be for a term of 3 years and shall continue until a successor is appointed and has qualified.

(2) *Meetings.* Meetings of the Board shall be held at least once every month and at such other times as the Board may determine. There shall be a fixed place of meeting and all meetings shall be open to the public. The Board shall adopt its rules of procedure and keep a record of its proceedings showing the action of the Board, the finding of facts made by the Board and the vote of each member upon each question considered. The presence of 4 members shall be necessary to constitute a quorum and 4 affirmative votes shall be required to grant a variance.

(3) *Powers.* The [Zoning Board of Appeals](#) shall have power to hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, decision or determination made by the Administrator, or any other administrative official, in connection with the enforcement of this Chapter. The [Zoning Board of Appeals](#) shall have power to authorize a variance from the strict application of this Chapter where such application will result in practical difficulties or unnecessary hardships to the person owning or having the beneficial use of the property or sign for which a variance is sought. [For a building or property that is designated as historic by Federal, State or local government, the Zoning Board of Appeals may consider it to be a hardship or practical difficulty and may grant a variance, if the Historic District Commission has made a determination that a proposed sign is necessary and integral to the historic character of the building or property.](#) The provisions of this Chapter shall not be mandatory for buildings designated as historic structures by State, Federal or local governments, subject to a variance being granted by the Sign Board of Appeals and upon a recommendation of the Historic District Commission. [that the proposed sign is necessary and integral to the historic character of the building. The appeal procedural procedures for the Zoning Board of Appeals requirements for appeals underin Chapter 55 shall be applicable to appeals under this chapter.](#) Prior to the granting of an appeal or of a variance by the Board, the City Attorney and the planning and development services manager or designee shall be given a reasonable opportunity to study the appeal or request for variances and to make recommendations thereon to the Board. The concurring vote of 4 members shall be necessary to reverse or modify any order, requirement, decision or determination of the Administrator, or any other administrative official, or to grant any variance from the strict application of this Chapter.

(4) *Application of the variance power.* A variance may be allowed by the Board in cases involving practical difficulties or unnecessary hardships only when the evidence in the official record of the appeal supports all the following affirmative findings:

(a) That the alleged hardships or practical difficulties, or both, are peculiar to the property of the person requesting the variance and result from conditions which do not exist generally throughout the City.

(b) That allowing the variance will result in substantial justice being done, considering the public benefits intended to be secured by this Chapter, the individual hardships that will be suffered by a failure of the Board to grant a variance and the rights of others whose property would be affected by the allowance of the variance.

(5) *Application of the variance power - Historic building.* A variance may be allowed by the Board in cases where the Board has received a recommendation from the Historic District Commission that the proposed sign is necessary and integral to the historic character of the building. In such cases, the findings in Subsections (4) (a) and (b) are not required.

(6) *Duration of variance.* A variance which is granted shall remain in effect only so long as the site plan that is in effect at the time the variance is granted remains in effect without change or modification for the property on which the sign is located.

(7) *Appeal procedure.*

(a) Appeals shall be commenced by a person filing a notice of appeal with the planning and development services manager on a form to be supplied by the planning and development services manager. The fees for appeals shall be established by resolution of City Council upon the recommendation of the City Administrator. In the case of an appeal from a decision or order of an administrative official, this fee shall be returned if the appellant prevails. The notice of appeal shall specify the particular grounds upon which the appeal is based and shall be signed. It shall also specify the requirements from which a variance is sought and the nature and extent of such variance.

(b) The Board shall fix a reasonable time for the hearing of appeals and, in the case of variance requests, shall give due notice thereof to all owners-of-record of real property within 300 feet of the premises in question, such notice to be delivered personally or by mail addressed to the respective owners at the address given in the last assessment roll.

(c) Any person shall be accorded the right to appear in person or be represented by a duly authorized agent.

(d) The Board shall prepare an official record for each appeal and shall base its decision on this record. The official record shall include:

(i) The relevant administrative records and the administrative orders issued thereon relating to the appeal.

(ii) The notice of appeal.

(iii) Such documents, exhibits, photographs or written reports as may be submitted to the Board for its consideration.

Section 2. That this ordinance shall take effect on the tenth day following legal publication.

### **CERTIFICATION**

I hereby certify that the foregoing ordinance was adopted by the Council of the City of Ann Arbor, Michigan, at its regular session of November 8, 2012.

Date

Jacqueline Beaudry, City Clerk

John Hieftje, Mayor

I hereby certify that the foregoing ordinance received legal publication on the City Clerk's Webpage on November 15, 2012.

Jacqueline Beaudry, City Clerk