

ORDINANCE NO. 2116

**AN ORDINANCE OF THE CITY OF COTTLEVILLE,
MISSOURI, AMENDING SECTION 400.090 OF THE
MUNICIPAL CODE OF THE CITY OF COTTLEVILLE
RELATED TO THE CITY'S BOARD OF ADJUSTMENT**

WHEREAS, pursuant to Section 89.080, RSMo., the Board of Aldermen, “[...] shall provide for the appointment of a board of adjustment, and in the regulations and restrictions adopted pursuant to the authority of sections 89.010 to 89.140 may provide that the board of adjustment may determine and vary their application in harmony with their general purpose and intent and in accordance with general or specific rules therein contained[;]”

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF COTTLEVILLE, MISSOURI, AS FOLLOWS:

SECTION 1. That Section 400.090 of the Municipal Code of the City of Cottleville, Missouri, be and hereby is amended by deleting Section 400.090 in its entirety and enacting, in lieu thereof, a new Section 400.090 to read as follows:

Section 400.090. Board of Adjustment.

A. Pursuant to Section 89.080 to 89.110, RSMo., et seq., the City of Cottleville Board of Adjustment shall have the powers and duties as hereinafter set forth. The Mayor, by and with the consent of the Board of Aldermen, shall appoint five (5) citizens to such Board.

B. *Membership.* The Board of Adjustment shall consist of five (5) members, who shall be residents of the City. Members shall be appointed for terms of five (5) years each.

1. The Board shall elect its own Chairman and Vice-Chairman who shall each serve for one (1) year.

2. All members shall be removable for cause by the appointing authority upon written charges and after public hearings.

3. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant. The City Administrator shall notify the appointing authority in advance when terms of members are about to expire.

4. The Mayor, by and with the consent of the Board of Aldermen, may appoint up to three (3) alternate members of the Board of Adjustment who shall each serve for a term of five (5) years. The alternate members of the Board of

Adjustment shall serve only when a regular member of said Board is unable to act as a member of said Board on any matter before the Board, or when one (1) or more regular members is absent from a meeting of said Board. When serving on the Board, such alternate members shall serve and act as regular members of the Board, except that such alternate members may not be elected Chairman or Secretary of the Board. The alternate members of the Board may be removed in accordance with this Section B.

C. The Board, by resolution, may adopt rules in accordance with the provisions of this Chapter. Meetings of the Board shall be held at the call of the Chairman and at such times as the Board may determine. The Chairman, or in his/her absence, the Vice-Chairman, may administer oaths and compel the 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 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 immediately filed in the office of the City Clerk and shall be a public record. The concurring vote of four (4) members of the Board shall be necessary to reverse any order, requirement, decision, or determination of any administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under any ordinance, or to effect any variance or other relief. All testimony, objections thereto and rulings thereon, shall be taken down by a reporter retained by the Board for that purpose.

D. Appeal and Variance Filing Procedures.

1. Application for appeals and variances pursuant to the Municipal Code shall be filed and processed in the following manner:

a. Variances to the Board of Adjustment may be filed by anyone having a vested interest in the property being affected by the complained of zoning regulation. Appeals to the Board of Adjustment may be taken by any person aggrieved, by any neighborhood organization as defined in Section 32.105, RSMo., representing such person, or by any officer, department, board or bureau of the City affected by any decision of the administrative officer. An appeal shall be taken within thirty (30) days of the date of the action which is appealed.

b. Applications for variances and appeals shall contain or be accompanied by a legal description of the impacted property, a map of the impacted property, any applicable plats or plans, names and addresses of all the owners of the impacted property, date of filing with the Board of Adjustment, the present zoning of the impacted property, and the names and addresses of all the owners of all the parcels of property which abut the impacted property.

(1) An application for a variance must state the variance that is requested and the reason for such variance, including supporting documentation.

(2) An application for an appeal of an administrative zoning decision must contain a memorandum in support of the appeal describing the legal basis for the same.

c. A non-refundable fee as set forth in the Schedule of Zoning and Subdivision Fees, as provided for in Section 405.790 of the Municipal Code, shall be paid by the applicant or applicants for any matter before the Board of Adjustment.

d. The City Administrator shall review all applications and determine if sufficient data is contained therein to adequately describe the situation to the Board of Adjustment. If the data is not adequate, the City Administrator shall return the application to the applicant for additional information. Completed applications shall be forwarded to the Board of Adjustment along with a written record of the facts.

e. The Chairman of the Board of Adjustment shall schedule one (1) or more public hearings (as deemed necessary) within sixty (60) days after receiving an application from the City Administrator. The hearing(s) shall be published in a newspaper of general circulation in the City at least one (1) week prior to the hearing(s). The City Administrator shall post notice on the property involved for a period of one (1) week prior to the hearing(s) and shall send notice of the public hearing(s) by regular mail to the owners of property that abuts the property involved in the appeal or variance.

C. Appeal or Variance Criteria.

1. In an appeal of a decision of an administrative official, the Board of Adjustment may consider, but not be limited to, the following questions:

(1) What specific action was taken by the administrative official?

(2) What specific Section of the Municipal Code did the official use as a basis for taking this action?

(3) What interpretation is the administrative official making of this specific Section in the Municipal Code as it pertains to action taken?

(4) What interpretation is being made by the petitioner?

2. In reviewing a request for variance, the Board of Adjustment may consider, but not be limited to, the following questions:

(1) If the petitioner complied with the provisions of this Municipal Code, will the petitioner not be able to make reasonable use of the property?

(2) Is there a hardship/practical difficulty suffered by the property in question?

(3) Does the hardship/practical difficulty result from the strict application of the Municipal Code?

(4) Is the hardship/practical difficulty the result of the applicant's own action?

(5) Is the requested variance in harmony with general purpose and intent of the Municipal Code?

SECTION 2. Savings Clause: Except as expressly set forth herein, nothing contained in this Ordinance shall in any manner be deemed or construed to alter, modify, supersede, supplant or otherwise nullify any other Ordinance of the City or the requirements thereof whether or not relating to or in any manner connected with the subject matter hereof.

SECTION 3. Severability Clause: If any term, condition, or provision of this Ordinance shall, to any extent, be held to be invalid or unenforceable, the remainder hereof shall be valid in all other respects and continue to be effective and each and every remaining provision hereof shall be valid and shall be enforced to the fullest extent permitted by law, it being the intent of the Board of Aldermen that it would have enacted this Ordinance without the invalid or unenforceable provisions. In the event of a subsequent change in applicable law so that the provision which had been held invalid is no longer invalid, said provision shall thereupon return to full force and effect without further action by the City and shall thereafter be binding.

SECTION 4. Effective Date: This Ordinance shall be in full force and take effect from and after its final passage and approval.

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Read the first (1st) time this 18 day of October, 2023.

Robert Runkali
As Presiding Officer and as Mayor

Attest: Aylcheus
City Clerk

Read the second (2nd) time and passed this 15 day of November, 2023.

Robert Runkali
As Presiding Officer and as Mayor

Attest: Aylcheus
City Clerk

Approved this 15 day of November, 2023.

Robert Runkali
Mayor

Attest: glh
City Clerk