

## Chapter 2.92 BOARD OF APPEALS

### **Sec. 2.92.100 - Appeals board—Establishment and organization.**

For all administrative actions by the City which entitle a party to an appeal, an appeal board is established as set forth below.

### **Sec. 2.92. 110-Appeals board organization.**

The board shall consist of the following membership.

- a. The Board of Appeals shall consist of three voting members, who shall be appointed as follows.
  - i. The City of Mills Municipal Judge shall be a member and shall be the chief of the tribunal.
  - ii. A resident of the City of Mills chosen by the Mayor after consultation with the Council shall be appointed to be a member for a two-year term.
  - iii. In those instances, in which an appeal is made from a standardized International Code (“Code”) adopted by the City of Mills, the makeup of the Board shall comport with the requirements of the of the Code, provided, however, that to the fullest extent possible the existing members of the Board of Appeals shall be used.
  - iv. In instances in which an appeal is made from a body of limited jurisdiction within the City, but for which there is no specific requirement that a person with specialized knowledge be appointed, the City shall endeavor to appoint a professional in the field in question or a closely related field.
  - v. In all other instances, the third member shall be a former member of the Mills City Council chosen by the Mayor after consultation with the Council, who shall serve for a two year term. Nothing shall preclude the Mayor from choosing a member who satisfies the requirements of subsection a.(iii) above.
  - vi. The Chief of the Department from which the appeal originates shall sit as a nonvoting member of the Board of Appeals, who shall sit in an advisory capacity in regard to the topic under appeal. In the event that said individual is conflicted due to being a witness, or otherwise, his or her deputy shall serve in that capacity.
  - vii. The City Clerk shall serve as the Secretary of the Board of Appeals.
- b. Irrespective of what is provided for above, the initial terms of the Board of Appeals shall be staggered so that they do not expire at the same time, therefore there shall be, initially, one individual appointed to a three-year term. Nothing shall preclude the reappointment of any member of the Board of Appeals.
- c. In those instances in which an International Code requires a person with specialized qualifications to serve on a Board of Appeals, the City may undertake to appoint said person to a term of two years prior to there being any appeal under the said ordinance. Nothing shall preclude any person so appointed from otherwise being the third member of the Board of Appeals irrespective of their residence.

- d. No person may serve on a Board of Appeals who would not be qualified to serve on a jury under the laws of the State of Wyoming.
- e. The City Attorney shall represent the City in the Appeal and prosecute the same on behalf of the City.
- f. The City Prosecutor shall serve as the attorney for the Board of Appeals.
- g. In exercising its powers, the board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination, as necessary, and to that end has all the powers of the officer from whom the appeal is taken. The concurring vote of a majority of the duly appointed members of the board is necessary to reverse any order, requirement or decision of any official, or to decide in favor of the contestee on any matter which it is required to pass under this chapter.

**Sec. 2.92.120 - Right to appeal.**

- a. This section establishes no independent right of appeal, but it is rather provided that in all instances in which an appeal from a municipal order is provided for, the Board of Appeals shall have jurisdiction over the same. This provision replaces any prior provision providing for any other type of board of appeal or tribunal, no matter where found in the ordinances or how provided for
- b. Nothing in this section shall in any way be read to imply that the Board of Appeals has any jurisdiction over an appeal from the Municipal Court. Any matter which the Municipal Court has jurisdiction over shall be completely separate and apparent from anything provided herein.

**Sec. 2.92.130 - Appeals—Procedure generally.**

- a. Notice of appeal of an order, requirement, decision or determination shall be filed in the office of the city clerk within fifteen days of the date the contestee is notified in writing of the order, requirement, decision or determination unless otherwise provided by specific ordinance. The filing of the notice of appeals stays all proceedings in furtherance of the action appealed from.
- b. The written appeal shall be in a form substantially complying to the following
  - i. A heading in the words "Before the Board of Appeals, City of Mills, Wyoming
  - ii. A caption reading: "Appeal of \_\_\_\_\_," giving the names of all contestants participating in the appeal
  - iii. A brief statement setting forth what legal rights or interests are affected by the order, requirement, decision or determination of the city manager, as the same applies to each contestant;
  - iv. A brief statement in ordinary and concise language of the specific order, requirement, decision or determination protested, together with any material facts claimed to support the contentions of the contestant;

v. A brief statement in ordinary and concise language of the relief sought, and the reasons why it is claimed the protested order, requirement, decision or determination should be reversed, modified or otherwise set aside;

vi. Signatures of all parties named as contestants, and their official mailing addresses;

vii The verification, by declaration under penalty of perjury of at least one contestant, as to the truth of the matter stated in the notice of the appeal.

c. Upon the filing of the notice of appeal, the board shall be immediately notified, and the board shall fix a reasonable time and place for the hearing of the appeal. Such date shall be not less than ten days nor more than sixty days from the date the appeal was filed. Written notice of the time and place of the hearing shall be given at least ten days prior to the date of the hearing to each contestant by the secretary of the board, either by causing a copy of such notice to be delivered to the contestant personally, or by mailing a copy thereof, postage prepaid, addressed to the contestee at his address shown on the appeal. The notice shall include a statement of:

i. The time, place and nature of the hearing;

ii. The legal authority and jurisdiction under which the hearing is to be held.

iii. The particular section or sections of this chapter involved;

iv. A short and plain statement of the matters asserted.

d. All appeals to the board shall be considered contested cases, and shall be conducted in accordance with the Wyoming Administrative Procedure Act. Nothing shall preclude the chief of the tribunal from making reasonable alternations to procedure to suit the needs of the contested case. The parties to the appeal may stipulate to modify the procedure, provided that any such stipulation must then be submitted to the chief of the tribunal who may accept or reject the same based on his discretion.

e. Any objection to any member of the Board of Appeals hearing the appeal in question must be made at the time of the appeal, or as soon a practical thereafter, or it shall be deemed waived. The chief of the Board of Appeals shall rule on any such objection

#### **Sec. 2.92.140- Appeals—Scope of hearings.**

Only those matters or issues specifically raised by the contestants shall be considered in the hearing of the appeal.

#### **Sec. 2.92.150 - Effect of failure to appeal.**

Failure of any person to file an appeal in accordance with the provisions of this chapter shall constitute a waiver of his or her right to an administrative hearing and adjudication of the order, requirement, decision or determination, or any portion thereof, and the order, requirement, decision or determination shall become final. Such person shall have no further rights to appeal.