

## **Chapter 23 Administrative Appeal Procedure.**

### **23.01 WHO MAY APPEAL**

(a) Eligible Appellants. Any person who has a legally recognizable interest deprived by an interpretation, order or decision of this Ordinance made by an agent, official or body politic of Langlade County may initiate an administrative appeal of interpretation, order or decision to the Committee or agency having jurisdiction over the matter.

### **23.02 APPEAL PROCEDURE**

(a) Applicability. This appeal procedure shall apply to all administrative appeals, unless a specific appeal procedure for the matter or issue under review has been established by the State or Federal government.

(b) Time for Appeals. An appeal shall be commenced within 30 days after the making of the order, decision or interpretation being appealed.

(c) Initiating an Appeal. An appeal shall be commenced by filing with the County Clerk a notice of appeal specifying the decision appealed from, the grounds for appeal, the relief requested and payment of any applicable fees. Upon receipt of such a notice, the County Clerk shall immediately notify the Corporation Counsel who shall determine whether the appeal is eligible under this Ordinance and, if the appeal is eligible, forward the matter to the Committee or agency of jurisdiction.

(d) Hearing on Appeal. The Committee shall conduct a public hearing on all administrative appeals before it and shall post notices of the hearing as required by the Open Meetings Law. The Committee shall comply with all requirements of the Wisconsin Open Meetings Law in the conduct of the business before it. The nature of the Committee's proceedings is quasijudicial. The Committee may, therefore, deliberate in closed session after a hearing on the matter, provided legal requirements are complied with.

(1) The Committee may conduct site inspections of premises and the surrounding areas which are the subject of matters before the Committee, provided that when the Committee as a unit or individual members are engaged in such site inspections, they shall not allow interested parties to present arguments and materials shall be received only at hearings before the Committee.

(2) All testimony shall be given under oath of truthfulness and candor to the Committee.

(3) Reasonable advance notice of all hearings and meetings on the administrative appeal shall be given to the appellant by mailing a copy of the hearing notice to the address shown for the property on file in the property lister's office. Failure to accomplish such notice provisions shall not invalidate or prejudice the proceedings, provided the Committee concludes that reasonable efforts were made or that the appellant did, in fact, know of the proceedings and had reasonable opportunity to attend.

(4) All testimony before the Committee by persons other than Committee members and written or documentary evidence or material pertaining to matters before the Committee shall be received at the hearings conducted by the Committee provided, however, that

the content of relevant ordinance or statutory materials shall be deemed to be before the Committee in all cases and need not be entered into the record. All parties in interest shall be afforded reasonable opportunity to comment on all materials or information so received. Committee members who are in possession of facts which may have a bearing on the matter before the Committee shall enter same into the record of the hearing and opportunity shall be allowed for comments on such entries.

(e) Decision on Appeal. Following a public hearing and other investigation, the Committee shall decide the matter based upon whether the decision, determination or interpretation being appealed was in error. The Committee may reverse or affirm, wholly or partly, or may modify the decision appealed from and may make such decision as ought to have been made, and to that end shall have all powers of the officer from whom the appeal is taken. All decisions by the Committee on administrative appeals shall conform to the terms of any applicable County, State and Federal regulation.

(f) Court Review. Within 30 days after the filing of the decision of the Committee, the appellant may petition for review by the Circuit Court on the following grounds: 1) the Committee exceeded its jurisdiction; or 2) the Committee did not proceed on a correct theory of law; or 3) the decision of the Committee was arbitrary or oppressive; or 4) the decision of the Committee was based on prejudice or bias. Costs shall not be allowed against the Committee.

(g) Reconsideration. No application, petition or appeal which has been dismissed or denied by the Committee shall be considered again within one year of such denial, except upon a petition for reconsideration based upon a material alteration from the original application or petition and a motion to reconsider made by a member voting with the majority and passage by a 3/4 vote of the Committee. No application, petition or appeal shall be reconsidered unless the Committee determines that the petition for reconsideration contains a material alteration from the original application or petition. Any evidence which, in the opinion of the Committee, could have reasonably been presented at the previous hearing does not qualify as a material alteration.

(h) Petition for Reconsideration. Any party requesting consideration of an application, petition or appeal shall file a petition for reconsideration along with the requisite filing fee as may be established by the Committee. Petitions for reconsideration shall be in writing and shall state the reasons for the request and be accompanied by necessary data. The filing fee for a petition for reconsideration will not be refunded in the event the Committee decides not to reconsider the application or petition.

(i) Rehearing. A rehearing shall be held if the Committee determines that the petition for reconsideration is based upon a material alteration from the original application or petition by a 3/4 vote. The rehearing shall be subjected to the same fee and notice and procedural requirements as the original hearing.

(Feb. 21, 2006)