

ORDINANCE NO.508

AN ORDINANCE TO AMEND SECTIONS 11.02.080 AND 11.02.100 AND TO DELETE SECTION 11.02.090, TO INCORPORATE POWERS AND DUTIES OF THE BOARD OF ADJUSTMENT INTO SECTION 11.02.080 - AN ORDINANCE OF THE CITY OF POLSON REGARDING THE ESTABLISHMENT AND PROCEDURE OF A BOARD OF ADJUSTMENT:

11.02.080 Board of Adjustment; establishment and procedure.

A Board of Adjustment is hereby established which shall consist of 7 members to be appointed by the Mayor, subject, however, to approval by the City Council, each for a term of three (3) years; provided, however, that upon passage of this ordinance, 2 members shall be appointed for 1-year terms, 2 members for 2-year terms, and 3 members for 3-year terms. Thereafter, all appointments shall be made for 3-year terms. At least four members of the Board shall be residents of the City of Polson. Members of the Board of Adjustment may be removed from office by the City Council for cause upon written charges and after public hearings. Vacancies shall be filled by resolution of the City Council for the unexpired term of the affected member.

(A) Powers of the Board of Adjustment.

(1) The Board of Adjustment shall have the following powers:

(a) To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this part or any ordinance adopted pursuant thereto;

(b) To hear and decide special exceptions to the terms of the ordinance upon which such Board is required to pass under such ordinance;

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

(B) Proceedings of the Board of Adjustment: Upon application to the Board of Adjustment for determination of any matter within the scope of its powers as defined at subparagraph (A) above, the Chairman shall call a hearing to be held within a reasonable time not to exceed thirty (30) days from the date of the application. All applications shall be filed with the Polson City Clerk and shall be accompanied by the review fee which shall be set from time to time by the Polson City Council. The administrative official shall thereupon submit to the Board Chairman any documentation or records pertaining to the subject matter of the application. The Board of Adjustment shall give due notice of the appeal to the parties seeking Board of Adjustment review by written notice of the time and date set for hearing and shall provide such additional written notice to landowners in the immediate vicinity of the property subject of the hearing as the Board, in its sole discretion, determines necessary and appropriate. In addition, notice of the hearing, including the general subject matter to be addressed, shall be published in the Lake County Leader not less than three (3) days prior to the public hearing.

(C) Hearings; appeals; notice: Prior to the public hearing, and on the same date thereof, the Board shall convene at the site of the property subject of the hearing for the purpose of inspection, unless the Board Chairman determines the inspection to be unnecessary. On the date and at the time fixed for public hearing the Board shall convene at City Hall. A quorum shall be established of at least four (4) members of the Board. If a quorum is not reached, the proceedings shall adjourn and a new hearing shall be called subject to the same notice requirements.

If a quorum is established, the Board shall hear all evidence presented in favor of and opposed to the requested action. Any party may appear in person, or by agent, or attorney. The Board of Adjustments shall keep minutes or, in the alternative, a tape recording of its proceedings, showing the vote of each member upon

each question, all of which shall be a public record. At the conclusion of the hearing the Board shall render its decision which shall be effective on the date rendered, subject to the order of any Court having jurisdiction over the actions of the Board. If the Board hearing is called in connection with an appeal from a determination made by an administrative official, the Board may, in conformity with the provisions of this part, reverse or affirm, wholly or partly, or modify the order, requirement, decision, or determination appealed from and may make such determination as it deems appropriate consistent with the provisions of this Ordinance.

(D) Stay of proceedings: An appeal from a determination of an administrative official stays all proceedings as to the action appealed from unless the administrative official from whom the appeal is taken certifies to the Board of Adjustment after the notice of appeal shall have been filed, that a stay would, in his opinion, cause imminent peril to life or property, in which case the decision of the administrative officer shall not be stayed other than by Temporary Restraining Order of the Chairman of the Board or by the District Court.

In exercising the above-mentioned powers, such Board may, in conformity with the provisions of this part, reverse or affirm, wholly or partly, or modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as ought to be made and to that end shall have all the powers of the officer from whom the appeal is taken.

FIRST READING December 2, 1991

SECOND READING December 16, 1991

PASSED AND ADOPTED THIS 16th day of December, 1991.

CITY OF POLSON

BY: James W. Jones
James W. Jones, Mayor

Attest:

Jayne Devlin
Jayne Devlin
City Clerk