

Sec. 4-18. Hearings and judicial review.

(a) At any public hearing all testimony taken before the board shall be under oath and recorded stenographically, but the record shall not be transcribed unless any party desires to appeal from any order or determination of the board, and in such event the appealing party shall pay for the transcription and reimburse the board its stenographic expense incident to the hearing and shall furnish the original transcript to the board.

(b) The chairman, vice-chairman or chairman pro tem of the board or the director may issue notice for the hearing and may issue subpoenas requiring attendance and testimony of witnesses and/or the production of evidence relevant to any matter involved in such hearing. Said subpoena shall be served in the same manner as is provided for service of notice in Section 4-17. The director shall issue subpoenas requested by a person upon whom notice has been served to appear for a hearing or who otherwise has a real and substantial interest in the hearing. The chairman, vice-chairman, or chairman pro tem. or director is authorized to administer oaths and to examine witnesses. Witnesses may likewise be examined by any member of the board, the city attorney, the attorney representing the board, the attorney presenting proof from the Bureau, the applicant for variance or his attorney, an alleged violator or his attorney, or any other person determined by the board to have a real and substantial interest in the hearing or his attorney. In case of a refusal to obey a subpoena under this regulation, upon approval of a majority of the members of the board conducting the hearing, application may be made to any city court of this city or the state court of record for such necessary orders or other proceedings to compel the attendance and testimony of said witness or witnesses and/or to compel the production of such evidence. Upon application to a state court of record the court may issue such order and failure to appear before the board or produce evidence will be deemed to be contempt of the court from which order has issued. Failure to obey the order shall be punishable as provided by ordinances, state statutes or the common law for failure to obey a subpoena issued for appearance of a witness before such court.

(c) All hearings shall be held before not less than a majority of the board.

(d) Nothing in this section shall be construed to require a hearing prior to the issuance of an emergency order pursuant to Section 4-20 of this regulation or prior to the institution of action pursuant to any other section or provision of this regulation or the statutes of the state, the Acts of Congress of the United States, or any applicable doctrine of the law of the state.

(e) Any person aggrieved by any order or determination of the director may appeal said order or determination to the board and may request a public hearing before the board pursuant to the provisions of this Section 7. Notice of appeal and a bond in the amount of five-hundred dollars (\$500.00) to secure costs of the hearing shall be filed in the Bureau within thirty (30) days after the date of the final order or determination from which appeal is sought. The filing of the notice of appeal and bond herein provided for within the time herein prescribed shall perfect the appeal to the board. Upon receipt of said notice of appeal and bond, the director shall

immediately notify the chairman, vice-chairman or chairman pro tem of the board of the appeal. The hearing on appeal to the board may be had at a special meeting of the board called by the chairman, vice- chairman or chairman pro tem. or at a regular meeting. The perfecting of the appeal as herein provided shall suspend the operation of the order or determination appealed from until such time as the board has acted upon the appeal. Any person aggrieved by any final order or determination of the board hereunder shall have judicial review thereof by common law writ of certiorari. No judicial review shall be available until and after all administrative remedies have been exhausted.

(Code 1968, Sec. 4-16; Ord. No. 6021, Sec. 7, 3-4-69; Ord. No. 6221, Sec. 21, 9-29-70; Ord. No. 6502, Secs. 25-27, 10-3-72; Ord. No. 6838, Secs. 15-19, 1-14-75; Ord. No. 7098, Sec. 24, 10-5-76)

THIS IS THE FEDERALLY APPROVED REGULATION AS OF MAY 8, 1990

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