

NOTICE

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**CHAPTER 1177
HEARING EXAMINER**

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SECTION 1177.01 PURPOSE.

The purpose of this Chapter is to provide a means of applying the City's land use policies and regulations that respond to the following needs:

- A. To administratively separate the specific application of land use regulation from the process of adopting and legislating land use plans and regulations;
- B. To provide efficient, timely public review of private development proposals under the City's land use regulations; and
- C. To ensure fairness and due process in public hearings.

SECTION 1177.02 HEARING EXAMINER.

The position of Hearing Examiner is hereby created. The Examiner shall act on certain applications as empowered herein. Where there is a conflict between the provisions of this Chapter and other sections of the Planning and Zoning Codes, the provisions of this Chapter shall prevail.

SECTION 1177.03 APPOINTMENT.

The City Manager shall appoint Hearing Examiners to conduct public hearings and otherwise dispose of assigned matters as presented herein. The Hearing Examiner shall report directly to the City Manager.

SECTION 1177.04 QUALIFICATIONS.

All Hearing Examiners shall be appointed solely with regard to their qualifications for the duties of their office, and shall have such training or experience as will qualify them to conduct hearings on regulatory enactments and to discharge the other functions conferred upon them.

SECTION 1177.05 POWERS.

The Hearing Examiner shall review applications, conduct hearings and render decisions on those matters prescribed elsewhere in this code.

SECTION 1177.06 RULES AND REGULATIONS

The Examiner shall have the power to prescribe rules and regulations for the conduct of hearings.

SECTION 1177.07 DEVELOPMENT REPORT

When an application has been referred to the Hearing Examiner by the Zoning Administrator, the Zoning Administrator shall coordinate and assemble the reviews of other departments and governmental agencies having an interest in the subject of the applications, and shall prepare a report summarizing the factors involved and the Zoning Administrator findings and recommendations. The report shall be filed with the Examiner prior to the hearing.

SECTION 1177.08 HEARINGS

When an application is referred to the Hearing Examiner for review and decision, all required hearings as prescribed elsewhere in this code shall be conducted in accordance with legal requirements.

SECTION 1177.09 PRE-HEARING CONFERENCE

After the application has been filed, a pre-hearing conference may be requested by the applicant, City staff or interested parties. Pre-hearing conferences may be scheduled at the initiation and discretion of the Examiner in order to gather information on the application prior to hearing. The City staff and any interested party may present recommendations and considerations at the prehearing conference. Notice of the time, place and subject of the pre-hearing conference shall be provided in accordance with the notice requirements contained in Chapters 1153, 1155, 1159, 1163 or 1175.12 as applicable to the type of development approval requested.

SECTION 1177.10 EXAMINER'S FINDINGS.

When the Examiner renders a decision, the findings shall be made from the record and conclusions thereof which support the decision.

The findings and conclusions shall explain the manner in which the decision carries out the provisions of the Zoning Code and official plans, policies and objectives of the City of Kettering.

SECTION 1177.11 EXAMINER'S DECISION.

The Examiner may act to grant or deny the application, or to approve with such conditions, modifications and restrictions as the Examiner finds necessary to carry out the provisions of this Zoning Code and official plans, policies and objectives of the City.

SECTION 1177.12 WRITTEN DECISION.

Within five (5) working days of the conclusion of the hearing, the Examiner shall render a written decision and shall transmit a copy of the decision to the Zoning Administrator, who shall then notify the applicant and other interested parties of record requesting same.

SECTION 1177.13 APPEALS TO REVIEWING COMMISSION OR BOARD.

Any person aggrieved by the decision of the Hearing Examiner may submit a written appeal provided that an intent to appeal is filed within five (5) working days of the written decision of the Examiner. A complete written appeal setting forth the facts, issues and arguments must then be filed within fourteen (14) calendar days of the written decision of the Examiner or the intent to appeal shall become void. The intent to appeal and the written appeal must be filed with the Zoning Administrator. Such appeals shall be heard in accordance with the procedures established in the chapters of this Zoning Code upon which the decision was made.

SECTION 1177.14 FREEDOM FROM IMPROPER INFLUENCE.

Municipal appointed or elected officials, or any other persons, shall not interfere with the Examiner in the performance of duties.