

**STRUCTURE LEGISLATION TO LIMIT THE NUMBER OF PEOPLE WHO HAVE STANDING TO CHALLENGE THE CITY'S DECISION.**

**Zoning Regulations  
Definitions**

*A. In General.*

1. Unless a contrary intention clearly applies, the following words and phrases shall have the meanings given in the following definitions for the purposes of this Chapter. Words and phrases which are not defined shall be given their usual meaning except where the context clearly indicates a different or specific meaning.

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*B. Definitions.* As used in this Chapter, unless the context otherwise indicates, the following terms mean:

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**AGGRIEVED PARTY**

For the purpose of standing to file permitted appeals from decisions made in the course of administration of the City's land use regulations, an "aggrieved party" is either:

1. The applicant, or
2. One who:
  - a. is the owner or occupant of property within two hundred (200) feet of the subject property as measured from the nearest boundary of the subject property; and
  - b. suffers a demonstrable and material adverse effect from the decision at issue.

**Commented [K01]:** Since Sec. 89.060, RSMo. affords property owners within 185 feet of property subject to a zoning change standing to protest enactment of zoning amendments or changes, I generally use 200 feet (185 feet rounded up to simplify administration) as the proximity limit for zoning matters like mailing notices and determining standing.

**“It is a general rule that a party seeking relief under the zoning laws must first pursue and exhaust the administrative remedy available before bringing an action or proceeding for judicial relief.”** (§ 25:375. *Necessity of resort to administrative remedies, 8A McQuillin Mun. Corp. § 25:375 (3d ed.)*)

### Zoning Regulations Conditional Use Permit Appeals

An **aggrieved party** may, within fifteen (15) days of the decision for which redress is sought, file with the Board of Aldermen a written request for reconsideration and appeal of any decisions of the Board of Aldermen under this Article. The written request must set forth in a concise manner (a) the factual basis upon which the appellant qualifies as an “aggrieved party;” and (b) the decision being appealed; and (c) all grounds known to the appellant as to wherein and why the decision is allegedly in error. The request for reconsideration and appeal must be filed with the City Clerk within the time specified above. A copy of the request and any supporting documents or materials filed by the aggrieved party must be served by the aggrieved party on the applicant (if different than the aggrieved party) by certified U.S. mail, return receipt requested, within three (3) days of filing with the City Clerk. Proof of service on the applicant must be filed with the City Clerk within six (6) days of filing of the request. The Board of Aldermen may consider the appeal on the record of the prior decision or may, at its sole discretion, receive additional evidence in such manner as it deems appropriate in light of the circumstances.

**Commented [K02]:** CUPs are administrative decisions to which the exhaustion of remedies principle is especially applicable

**Commented [K03]:** If you really want to be aggressive this could be shortened.

**Commented [K04]:** Make your opponent show their hand now. It may also be possible to preclude litigation on grounds not raised before the city in this manner.

### Chapter 405. Zoning Regulations Article X. Planned Unit Development District Section 405.1450. Appeals.

An **aggrieved party** may, within fifteen (15) days of the decision for which redress is sought, file with the Board of Aldermen a written request for reconsideration and appeal of any decisions of the Board of Aldermen under this Article. The written request must set forth in a concise manner (a) the factual basis upon which the appellant qualifies as an “aggrieved party;” and (b) the decision being appealed; and (c) all grounds known to the appellant as to wherein and why the decision is allegedly in error. . The request for reconsideration and appeal must be filed with the City Clerk within the time specified above. A copy of the request and any supporting documents or materials filed by the aggrieved party must be served by the aggrieved party on the applicant (if different than the aggrieved party) by certified U.S. mail, return receipt requested, within three (3) days of filing with the City Clerk. Proof of service on the applicant must be filed with the City Clerk within six (6) days of filing of the request. The Board of Aldermen may consider the appeal on the record of the prior decision or may, at its sole discretion, receive additional evidence in such manner as it deems appropriate in light of the circumstances.

**Commented [K05]:** Planned districts are generally site-specific rezonings and, therefore, legislative decisions. But given some of the broad statements in some Missouri zoning case law, the exhaustion principle may still have some applicability.

**Commented [K06]:** This gives the city the ability to dispose of an frivolous appeal in summary fashion. It also gives a chance to correct a mistake if the appellant demonstrates a strong case, Finally, when the governing body makes written findings and conclusions in the case it gives the city a chance to frame the facts and governing law before litigation even starts.