

PURPOSE

The following rules of procedure are hereby adopted by the City of Montrose Zoning Board of Appeals (hereinafter known as the Board) to facilitate the performance of its duties as outlined in the City Charter and Zoning Ordinances No. 88.

ARTICLE I

Organization –

1. The Board shall annually, on the **second Wednesday** in February, elect its own Chairperson and Vice-Chairperson to hold office for one year. The City Clerk shall be the Clerk of the Board, provided that the City Clerk may from time to time appoint other persons to make records of the meetings.
2. The Chairperson shall preside at all meetings of the Board. In case of the absence of the Chairperson, the Vice-Chairperson shall preside. The presiding officer, subject to these rules, shall decide all points of order or procedure.
3. The Clerk or the Clerk's appointee shall keep the minutes of the Board's proceedings; shall have custody of all records of the Board; shall sign all extra-official communications of the Board and perform such other duties as may be requested by the Board or Chairperson.

ARTICLE II

Meetings – ATTENDANCE

1. All Board hearings, records and accounts shall be open to the public, and posted in compliance with P.A. 267 of 1976, being the Michigan Open Meetings Act.
2. Board regular meetings shall be held on the on the **second Wednesday** of each month, when required, at **7:00 P.M.** except when such day falls on a legal holiday, then on the next succeeding secular day along with granting to the Chairman, Building Official/Zoning Administrator or City Manager the authority to cancel any monthly meeting if there are no business items to consider.
3. A resolution supported by four (4) of the members may temporarily suspend any rule of procedure, or change the date and/or time of a regular meeting as set forth in paragraph (2).
4. A special meeting may be called by the Chairperson or upon request of two (2) members, provided eighteen (18) hours notice has been given to each member of the Board.
5. Three (3) members of the Board shall constitute a quorum for the conduction of its business. The concurring vote of four (4) members shall be necessary to

reverse any order, requirement, decision or determination of any administrative official. The concurring vote of three (3) members shall be necessary to decide any matter upon which the Board is required to pass by law, or to effect any variation in the terms of the Zoning Ordinance. When a petitioner is present, they shall be advised of their right to be heard by the full board. In the absence of a quorum, the members present may hold discussions and/or recess the meeting of hearing to a later date and time.

6. Unexcused absence from two consecutive meetings shall automatically cause a review of that member's attendance by the Board at the next regular meeting and may require, as determined by the attendance review, a letter of intent by the absent member to remain on the Board.
7. The order of business at Board meetings shall be as follows:
 - A. CALL TO ORDER
 - B. ROLL CALL
 - C. PLEDGE OF ALLEGIANCE TO THE FLAG
 - D. PUBLIC COMMENTS
 - E. PUBLIC HEARING
 - F. APPROVAL OF MINUTES
 - G. COMMUNICATIONS TO THE BOARD
 - H. UNFINISHED BUSINESS
 - I. NEW BUSINESS
 - J. EXTENDED BOARD COMMENTS
 - K. PUBLIC COMMENTS
 - L. ADJOURNMENT
8. Parliamentary Procedure. Meetings shall be conducted in a formal manner and parliamentary procedure shall be governed by Roberts Rules of Order if not specifically dealt with in these rules of procedure.
9. Conflict of Interest. In order to maintain public trust and insure fairness, it is mandatory for a member to remove himself or herself from the hearing if a member believes there is a conflict of interest. A member will be in conflict of interest if the issue before the board involves property owner, leased, or rented by the member; a relative or employer of the member. Also, if the applicant shares a financial interest with or is a party that has close ties to the member, a conflict of interest will exist and the member must remove themselves from the hearing.

ARTICLE III

Appeals

1. All applications to the Zoning Board of Appeals shall be made in duplicate and in writing, on forms provided for that purpose and adopted by the Board, or any form satisfactory to the Board. Forms may be secured at the office of City Clerk. One copy of such application shall be served upon the administrative official from

whom the appeal is taken, and such official shall transmit to the Board all papers constituting the record upon which the action of appeal was taken.

2. In addition to the information required in said forms, all appeals shall contain the following information:
 - A. The principal points on which the appeal is made based on the decision, order, or section of ordinance appealed from.
 - B. Plans drawn to scale showing shape and dimension of lots, buildings, and lines of proposed building to be erected, altered, or change of use. Such other information with regard to lot, or neighboring lots, proposed use, or existing use, as may be deemed necessary.
 - C. A clear and accurate description of the proposed use or work.
 - D. The principle points upon which the appeal is made.
 - E. In cases requested by the Board, the names and addresses of abutting property owners directly affected.
 - F. An appeal fee, set by the City Council, shall be paid at time of application.
3. Every appeal shall be taken by the applicant within 45 days of the date of order, refusal of permit, requirement, or determination of such department from which the appeal is taken, provided the Board may in exceptional cases for good reason, grant additional time.
4. Applications of appeals for interpretation, adjustment, special exception or modification of the requirements of the Zoning Ordinance, shall be made in the name of the property owner or in the discretion of the Board by persons having substantial interest and rights in the property or premises affected. Applicants may appear on their own behalf, or represented by an attorney or a designated agent, at the hearing.
5. Procedure for Public Hearings.
 - A. The Chairperson shall summarize, provide copies, or conspicuously post the procedure for public hearing as outlined in this section of the rules of procedure for any members of the public in attendance.
 - B. Case number or description _____.
 - i) The zoning administrator, or City Clerk, presents the petitioner's request, his action on the matter and reasons for his decision plus a written copy of his request.
 - ii) The petitioner – through himself, his agent, his lawyer – may present his case, including presenting witnesses on his behalf. No unreasonable time limit will be imposed on the petitioner.

- iii) Members of the Board of Appeals may report on their site inspection and any conversations with the petitioner they may have had.
- iv) Members of the public who support the petitioner may speak and correspondence will be read.
- v) The Chairperson may recess the meeting for a short time to allow those in support to caucus in order to have one speak on their behalf for a reasonable amount of time if there are a large number of people present on an issue.

The Chairperson may allow many to speak in favor of the petitioner and can impose a time limit for the speaker that is five minutes or more per speaker.

- vi) Members or the public who oppose the petitioner, may speak and correspondence will be read. The Chairperson shall give the members of the public that oppose the petitioner the same considerations as in section v) above.
- vii) Rebuttal. Anyone may ask the Chairperson questions on presentations or speeches given at this hearing. The Chairperson will seek an answer to the question. Answers shall be given to the Chairperson. No discussion, questioning or answering shall take place between any two or more people except between the Chairperson and the individual who has the floor.
- viii) Close the Public Hearing. At this point all public participation on the issue end.

6. Business Session.

A. Action on pending case number_____.

- i) Discussion: Review of facts based on all information presented (from the application, written request for appeal, zoning ordinance, physical characteristics of the parcels, staff reports, hearing testimony). Discussion continues until a member is confident enough to propose a motion that includes a "finding of fact" and/or "conclusions", and "rationales explaining why conclusion are reached" and "conditions" if any.
- ii) Motion is proposed on "finding of fact, rationale, conclusions, and conditions".

iii) Discussion of the motion focusing on standards and requirements of the ordinance.

iv) Action on the motion.

7. Comments Out of Order.

The Chairperson shall rule out of order on any irrelevant remarks; remarks which are personal, about another's race, religion, sex, physical condition, ethnic background, beliefs, or similar topics; profanity; or any other remarks which are not about the issue before the board.

8. An applicant shall be given notice of date of hearing not less than the required time set forth in the Zoning ordinances, unless the applicant shall waive such notice.

9. The City Clerk may require of the applicant such additional information and data as is deemed essential to fully advise the Board with reference to the appeal or request. Refusal or failure to comply shall be grounds for dismissal of the application by the Board.

10. No hearing on an appeal shall be held where a previous case involving the same premises, facts and parts of the Zoning ordinance in the opinion of the Board, had been decided.

11. An appeal stays all proceedings in furtherance of the action appealed from subject to the conditions enumerated the States Statutes.

ARTICLE IV

Rehearing –

1. No re-hearing of any decision of the Board will be considered unless new evidence is submitted which could not reasonably have been presented at the meeting or unless there has been a material change in facts of the case.
2. Application for re-hearing of a case shall be in writing subject to the same rules as an original hearing.

ARTICLE V

Disposition of Appeal or Zoning Variance

1. The Board may reverse, affirm, vary or modify any order, requirements, decisions, or determination as in its opinion should be made, and to that end shall have all the powers of the officer from whom the appeal is taken.
2. The final decision shall be in writing and so far as it is practicable, in the form of a general statement or resolution reciting the conditions, facts and findings of the Board. The applicant shall be advised of the decision by mail within ten

days of the hearing unless the Board moves for a continuation of such hearing.

3. Any applicant may withdraw their application at any time prior to final action.
4. Any decision of the Board favorable to the applicant shall remain valid only as long as the information or data relation thereto are found to be correct and the conditions upon which the resolution was based are maintained.
5. Whenever any variation or modification of the strict application of the terms of the Zoning ordinance is authorized by resolution of the Board, a building permit shall be obtained within six months from the date of this grant. Failure to obtain such permit within six months shall invalidate and terminate this grant.

ARTICLE VI

Amendments –

1. These Rules of Procedure may be amended at any regular or special meeting by an affirmative vote of four (4) members of the Zoning Board of Appeals, so long as such amendment does not result in a conflict with State law, zoning ordinance, or court decision.
2. All proposed changes to the Rules of Procedures (By-Laws) must be submitted to the City Council for their approval as required by Charter Article V, Chapter 1 Section 5-105, Entitled "Organization of Boards – Rules of Procedure", paragraph 8.

**Adopted by ZBA
Revised 11/09/92
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