

Zoning Board of Appeals
of the
City of Rockford, Illinois

The following Rules of Procedure are not part of the Rockford Zoning Ordinance but are herein provided as a convenience to the reader.

ADOPTED by the Zoning Board of Appeals on
DECEMBER 18, 2001

Rules of Procedure

ARTICLE I

GENERAL PROVISIONS

Section 1.1 These rules are formulated and adopted in conjunction with and as supplementary to the provisions of applicable Illinois statutes and the City of Rockford Zoning Ordinance as those provisions relate to procedures of the Zoning Board of Appeals.

Section 1.2 Any Board member who has a proprietary interest, or other conflict of interest, in any matter before the Board shall not vote thereon and shall remove himself from the discussion at which said matter is under consideration. If more than three members of the Board remove themselves from a hearing, the Board shall refer the matter to the Mayor and City Council for their direction and referral.

Section 1.3 Nothing herein shall be construed to give or grant to the Board the power or authority to amend the Zoning Ordinance, including both the text and the zoning map, such power and authority being reserved to the Mayor and City Council of the City of Rockford.

Section 1.4 The office of the Board shall be in the City Hall of the City of Rockford.

Section 1.5 The Board shall hold its hearings in the City Hall in Rockford, Illinois, unless, in a particular case, The City of Rockford Zoning Ordinance or the applicable statutes of Illinois require a hearing or hearings of the Board to be held in another location, or unless the Board directs that a particular hearing or hearings be held elsewhere.

ARTICLE II

OFFICERS AND DUTIES

Section 2.1 The officers of the Board shall be a Chairman, an Acting Chairman and a Secretary.

Section 2.2 The Chairman shall be designated by the Mayor of the City of Rockford with the consent of the City Council. The Mayor shall designate an Acting Chairman to act whenever the Chairman is absent. The Secretary shall be an employee of the City who has had experience in zoning matters and record keeping. In the event of death, removal for cause or resignation of any of the above-mentioned officers, a successor shall be named by the respective appointing authority.

Section 2.3 The Chairman shall supervise the affairs of the Zoning Board of Appeals. He shall preside at all hearings or meetings of the Board, shall appoint such committees and subcommittees as may be necessary to carry out the purposes of the Board, and shall administer or authorize the administration of oaths. The Chairman shall be an ex officio member of all committees and subcommittees appointed.

Section 2.4 In case of the absence or disability of the Chairman, the Acting Chairman shall perform all the duties and exercise all of the powers of the Chairman.

Section 2.5 The Secretary shall:

- (a) Record the minutes of the Board's proceedings and actions, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact;
- (b) Keep a record of the Board's official actions;
- (c) Act as custodian of the minutes and records of the Board, which shall be maintained in the office of the Board;
- (d) Record the names and addresses of all persons appearing before the Board;
- (e) Keep a brief record of the testimony of those appearing before the Board or cause a verbatim transcript of all hearings to be kept; whenever possible, make a tape recording of the hearing and preserve the tape recording for sixty days from the date that a written resolution is adopted by the Board. If an appeal is taken, the Secretary may make a brief record from the tape recording or cause a verbatim transcript to be made from the tape recording.
- (f) Subject to the instructions of the Chairman, conduct the correspondence of the Board and provide and have published notices of public hearings as required by law and these rules of procedure;
- (g) Furnish members of the public with blank forms of appeals and applications for zoning as are approved by the Board; and
- (h) Receive on behalf of the Board such forms, when completed and executed by the appellant or applicant or his agent or attorney.

It is not the duty, nor is it proper for the Secretary or his/her staff to complete any form for appeal or application for consideration on behalf of an appellant or applicant.

Section 2.6 In the case of the absence or temporary disability of the Secretary, the person who is the Secretary's designee is authorized to carry out the functions of the Secretary's office until the Secretary returns to his/her post or until a successor is appointed.

ARTICLE III

MEETINGS

Section 3.1 Regular meetings, designated as public hearings, shall be held on the third Tuesday of each month at 6:30 p.m. and at such other times as the Chairman or any 4 members of the Board may direct.

Section 3.2 Regular meetings may be cancelled by the Chairman when there are no cases pending or when it is apparent that there will not be a quorum, in which event notification of said cancellation shall be given to members of the Board.

Section 3.3 The Board may hold special meetings at the call of the Chairman or at the written request of 4 members of the Board, provided at least 48 hours' notice of any such meeting is given in person or by mail to each member.

Section 3.4 All regular meetings, i.e., public hearings, of the Board shall be open to the public and no official action shall be taken except in public and in accordance with Article IX hereof.

Section 3.5 No public hearing shall be held or official action taken unless a quorum is present. A quorum shall consist of 4 members of the Board.

ARTICLE IV

ORDER OF BUSINESS

Section 4.1 The order of business of the Board shall be as follows, unless otherwise set by the Chairman:

- (a) Roll call and declaration of quorum.
- (b) Approval of minutes of previous meeting(s).
- (c) Call of cases on agenda and hearing of requests for continuances.
- (d) Hearings of applications for variations, amendments to the Zoning Ordinance, special use permits, and appeals from any order, requirement, decision or determination of the Zoning Officer.
- (e) Any other business presented by members of the Board.
- (f) Adjournment.

ARTICLE V
CONTINUANCES

Section 5.1. Continuances may be granted at the discretion of the Board and only upon good cause shown. It is recognized that where notice of a hearing has been published and mailed to interested parties that considerable inconvenience may result to many interested persons in the event an application or appeal is continued to another meeting. Once a hearing on an appeal or application is commenced it is the policy of the Board to take all evidence and close testimony on the night the hearing is set. The Board may grant one continuance to persons who are legal objectors or entitled to receive notice of the hearing pursuant to the Zoning Ordinance for the purpose of presenting evidence to rebut testimony presented by the appellant or applicant.

ARTICLE VI
FAILURE OF APPELLANT OR APPLICANT TO APPEAR

Section 6.1 Whenever an appellant or applicant or his representative fails to appear, the Chairman may entertain a motion from the Board to dismiss the case for want of prosecution. In the absence of such a motion the Chairman shall rule.

Section 6.2 In cases which are dismissed for want of prosecution, the applicant shall be furnished written notice by the Secretary of the Board.

Section 6.3 Dismissal for want of prosecution is not a determination on the merits and shall not of itself bar the filing of a new appeal or application.

ARTICLE VII
INFORMATION TO BE SUPPLIED BY APPELLANT OR APPLICANT
THE CALENDAR
PAYMENT OF FEES

Section 7.1 All appeals and applications shall be made on such forms and in such number of copies as are prescribed by the Board and obtained from the Secretary. The completed forms shall be filed with the Secretary. Additional information that may be requested by the Board to aid it in reaching a decision shall be supplied by the appellant or the applicant.

Section 7.2 On receipt of the properly completed application forms, the appeal or application shall be numbered and placed on the calendar of the Board by the Secretary. The date for the hearing shall be set as soon as practicable, consistent with the filing deadline of the Board. Appeals or applications shall be generally heard in the order in which they appear on the calendar, except that a hearing may be advanced for good cause by order of the Chairman.

Section 7.3 All requests for zoning relief shall be accompanied by the requisite fee as set forth by the City of Rockford Zoning Ordinance.

Section 7.4 The Secretary shall remit all fees collected to the Finance Department, to be credited to the general revenue fund of the City of Rockford.

ARTICLE VIII

PROCEDURE FOR HEARINGS

Section 8.1. At the time of the hearing, the appellant or applicant or any interested party may appear in his/her own behalf or be represented by his/her duly appointed agent or attorney.

An interested party shall include property owners entitled to notice of the hearing as provided by Sections 1603.14.B and 1604.3.B. of the Zoning Ordinance, or a property owner who is a legal objector pursuant to Section 1605.7 of the Zoning Ordinance, and may include other persons as approved by the Chairman.

Section 8.2 All witnesses shall testify under oath.

Sections 8.3. Evidence shall be presented in the following order, except as may be modified by the Chairman in the best interest of all parties:

- (a) The appellant or applicant may make a brief opening statement outlining the nature of his request . The appellant or applicant may then present evidence in his behalf, which may consist of testimony and/or exhibits.
- (b) Board members may cross-examine the appellant or applicant's witnesses.
- (c) Interested parties may cross-examine the appellant or applicant's witnesses.
- (d) Interested parties may make a brief opening statement outlining their position as to the request. Interested parties may then present evidence to support their position.
- (e) Board members may cross-examine the interested parties' witnesses.
- (f) The appellant or applicant may cross-examine the interested parties' witnesses.
- (g) The Board may request additional evidence or information from the staff.
- (h) The appellant or applicant may present rebuttal evidence, which shall be limited to new matters presented by the interested parties' evidence or the Board's additional evidence or information presented.

- (i) Board members may cross-examine the appellant or applicant's rebuttal witnesses.
- (j) Interested parties may cross-examine the appellant or applicant's rebuttal witnesses.

Section 8.4. Upon the closing of evidence, the Board shall deliberate and vote on the appeal or application, or may continue the matter to the next regularly scheduled Board meeting, or to a specific time, date and location determined by the Board.

Section 8.5 The Board shall not be bound by strict rules of evidence, but it may exclude such irrelevant, immaterial, incompetent or unduly repetitious testimony or other like evidence as appropriate to insure an orderly proceeding. The Chairman shall rule on all questions relating to the admissibility of evidence. Any evidentiary ruling by the Chairman may be overruled by a majority of the Board members present.

Section 8.6 Every person appearing before the Board or in attendance at a hearing shall abide by the order and direction of the Chairman. Discourtesy, or disorderly or contemptuous conduct shall be regarded as a breach of order and of the privileges of the Board and such misconduct shall be dealt with as the Chairman deems proper, including ordering the removal of such persons from the hearing room.

Section 8.7

- a) No person acting for himself, a firm or corporation or any agent or attorney for the same shall, while Zoning Board of Appeals is in session, be allowed upon the floor of the chambers (meaning that portion in front of the railing) and the room to the south of the city council chambers, except members of the news media.
- b) No person shall perform any act in such unreasonable manner while in attendance at a Zoning Board of Appeals meeting so as to provoke, make or aid in making a breach of peace; or perform any unreasonable or offensive act, utterance, gesture or display which, under the circumstances, creates a clear and present danger of a breach of peace or imminent threat of violence; or refuse or fail to cease and desist any peaceful conduct or activity likely to produce a breach of peace where there is an imminent threat of violence.
- c) No person shall appear in city council chambers manifestly under the influence of alcohol, narcotics or other drug, not therapeutically administered, to the degree that he may endanger himself or other persons or property, or annoy persons in his vicinity.
- d) No person without authority of law shall carry any weapon or any dangerous substance on or about their person while in council chambers.
- e) No person shall carry a sign or placard greater than 8 1/2 inches by 11 inches in size or a sign or placard of any size upon a stake of any type within the council chambers. Permitted signs shall not be raised above shoulder height and/or displayed in such a manner as to obstruct the view of any other member of the public attendance.
- f) The capacity of the city council chambers shall be limited to the number of available seats. No member of the public in attendance at Zoning Board of Appeals meetings shall be allowed to remain standing immediately before, during or after the meeting unless otherwise permitted by these rules. Upon entering the city council chambers, the public shall seat themselves immediately in

preparation for the meeting, and except for the mass media, shall exit the council chambers immediately upon adjournment of Zoning Board of Appeals proceedings. At no time shall the ingress/egress aisles be obstructed with persons or equipment. Video camera operators employed by the mass media shall be allowed to stand at all times while operating their equipment.

- g) All members of the public shall remove their outer jackets and/or coats upon entering the council chambers. The public shall be permitted to wear blazers and/or suit jackets in council chambers at the discretion of the chairman or designee.
- h) The chairman or designee shall have the authority to order the removal and/or arrest by the city police department of any person found to be in violation of this Rule.
- i) It shall be unlawful for any person to disobey the lawful order of a police officer pursuant to this Rule.
- j) A violation of this Rule shall be an offense punishable by fine under this Code.

ARTICLE IX

DECISIONS

Section 9.1 Final decisions or recommendations shall be made within thirty-five days after the date of the closing of the hearing. Any appellant or applicant may withdraw his appeal or application at any time prior to the decision thereon by the Board.

Section 9.2 The Board shall conduct its vote in a public session. The Board may vote on any matter before it at the same meeting. at which evidence as to such matter is concluded, or, if the Board considers additional time for deliberation necessary, then the Board may defer its vote to a subsequent public session.

Section 9.3 Disposition on any appeal shall be a final administrative decision and shall be subject to judicial review pursuant to the provisions of the Administrative Review Law, as provided by applicable Statute. The Board may reverse or affirm, wholly or partly, or modify the order, requirement, decision or determination as it deems necessary.

Section 9.4 The concurring vote of four (4) members of the Board shall be necessary to recommend reversal of any order, requirement, decision, or determination of the Zoning Officer.

Section 9.5 The concurring vote of four (4) members of the Board shall be necessary to recommend for approval any application or matter for which the Board is authorized to make recommendations. Regardless of the motion made, whenever there is less than four (4) members who concur vote in favor of the motion, then the decision of the items shall be deemed a recommendation for disapproval.

Section 9.6 Members of the Board absent and not hearing all the evidence shall not be eligible to vote on any matter except that a member who was absent but states that he or she has listened to the recording of the meeting shall be eligible to vote.

Section 9.7 If a summary record (as opposed to a verbatim transcript) of any hearing is made, such summary record shall be approved as to accuracy by the members of the Board and shall be kept as a part of the public record in the office of the Board.

Section 9.8 After a decision of the Board is reached, notice thereof shall be given to the appellant or applicant, the Zoning Officer, Mayor and City Council and to such other parties of record as have requested such advice.

ARTICLE X

RECORDS

Section 10.1 A file of applications and decisions relating to each case shall be kept by the Secretary in the zoning office as a part of the public records of the Board.

Section 10.2 All records of the Board pertaining to appeals or applications shall be public records.

ARTICLE XI

AMENDMENTS

Section 11.1 These rules of procedure may be amended by the affirmative vote of at least 4 members of the Board. The proposed amendment must be presented in writing at a regular or special meeting proceeding the meeting at which the vote is taken.

Section 11.2 The suspension of any rule of procedure in any specific case may be authorized at any meeting of the Board by a majority vote of those members present, provided such suspension does not conflict with applicable Illinois statutes or the Zoning Ordinance of the City of Rockford.