

**CITY OF ROCHESTER, MICHIGAN  
BOARD OF APPEALS**

**RULES OF PROCEDURE**

**ADOPTED  
AUGUST 28, 1996**

**AMENDED  
SEPTEMBER 27, 2000**

**CITY OF ROCHESTER, MICHIGAN  
BOARD OF APPEALS**

**RULES OF PROCEDURE**

**1. AUTHORITY**

These Rules of Procedure are adopted by the City of Rochester Board of Appeals (hereinafter call the Board) pursuant to Article 30 of the Zoning Ordinance and Act 207 P.A. of 1921, as amended.

**2. OFFICERS**

2.1 Selection

- a) The officers of the Board shall consist of a Chairperson and a Vice-Chairperson from the general membership of the Board.
- b) The election of all officers shall occur at the Board's first regular meeting in July of each year.
- c) Any member nominated for an office on the Board shall have served on the Board for at least six (6) months.
- d) Nominations of members for an office shall be by a current member of the Board during the meeting when elections are held.
- e) All nominations shall be seconded by another member of the Board to be considered a valid nomination.
- f) All elections shall be conducted by a roll call vote.
- g) To be elected to an office, a nominee must receive a majority of the votes of the full Board.
- h) All terms of office shall be for one year or until a replacement is duly elected.
- i) A member of the Board may serve in the same office of the Board for any number of terms, but not more than three (3) consecutive terms.

2.2 Resignation of Officers

- a) An officer may resign his/her office by submitting a letter to the Board addresses to the Chairperson or Vice-Chairperson, as appropriate.

## 2.3 Duties of the Officers

### a) The **Chairperson** shall:

- 1) Preside at all meetings and shall conduct all meetings in accordance with the Open Meetings Act, (Public Act 267 of 1976, as amended), and the rules provided herein.
- 2) Clearly state the issues before the Board.
- 3) As appropriate, act as a liaison between the Board and the staff and City Attorney, and all other departments of the City of Rochester.

### b) The **Vice Chairperson** shall:

- 1) Act for the Chairperson when needed at Board meetings and attend City Council or other meetings at the request of the Chairperson.
- 2) Assist the Chairperson in recognizing members who may wish to speak.
- 3) Shall succeed to the office of Chairperson in the event of a vacancy in that office, in which case the Board shall select a successor to the office of Vice Chairperson at the earliest practical time.

## 2.4 The **Board Members** shall:

- a) Speak when recognized by the Chairperson.
- b) Serve on special committees as appointed by the Chairperson.

## 3. Meetings

### 3.1 Meeting Notices.

- a) All meetings of the Board shall be posted at the City Hall according to the Open Meetings Act.
- b) The notice shall include the date, time and place of the meeting.
- c) Notice of any change in the date or time of a meeting shall be posted in the manner required by the Open Meetings Act.

### 3.2 Regular Meetings/Special Meetings

- a) Regular meetings of the Board shall be held monthly on the fourth Wednesday of the month, unless no agenda items have been submitted for consideration by the Board. The secretary shall notify each Board member if no meeting will be held.
- b) Special meetings of the Board shall be held at the call of the Chairperson or upon written request by at least 3 Board members.
- c) When a regular meeting date or special meeting date falls on or near a legal holiday, the Board shall select a suitable alternate meeting date in accordance with the Open Meetings Act.
- d) The costs of a special meeting, such as consultant fees, recording secretary fees and Board members per diem fees, shall be born by the petitioner who requested the special meeting.

### 3.3 Quorum

- a) The presence of four (4) members of the Board shall constitute a quorum of the Board.
- b) If a quorum is not present, the members of the Board may discuss matters of interest, but can take no action until the next regular or special meeting.
- c) All hearings without a quorum shall be continued to and scheduled for the next regular or special meeting, notice of which shall be posted at least 18 hours in advance in the manner required by the Open Meetings Act. [MCL 15.265; MSA 4.1800 (15)].

### 3.4 Hearings

- a) Hearings shall be scheduled and due notice given in accordance with the provisions of Article 30 of the Zoning Ordinance.
- b) The order of presentation shall be as follows:

Petitioner  
Staff  
Public Testimony  
Correspondence  
Board Discussion/Decision

- c) The petitioner shall limit his/her remarks or presentation to 10 minutes unless provided additional time by the Chairperson.
  - 1) The Chairperson shall instruct the petitioner to sum up his/her remarks when the Chairperson or Board members feel that he/she has strayed from the pertinent facts or has become repetitive.
  - 2) If the petitioner has a spokesperson, that spokesperson may make the main presentation and the petitioner may also speak, but both speakers shall not exceed the time limit of this rule without permission of the Chairperson.
- d) Any member of the public wishing to address the Board during a hearing shall give their name, address, and position on the issue under discussion.
  - 1) The general public shall limit their remarks to 3 minutes each unless provided additional time by the Chairperson.
  - 2) All speakers shall address their remarks to the Chairperson only.
  - 3) No person shall be permitted to speak twice on the same issue until everyone wishing to be heard has had a chance to speak.
  - 4) No person, other than a Board member, city consultant or city staff shall be allowed to address an issue following the closing of that hearing unless recognized by the Chairperson.

### 3.5 Motions

- a) The name of the maker and supporter of the motions shall be recorded.
- b) All motions shall be restated or summarized by the Chairperson before a vote is taken.

### 3.6 Voting

- a) An affirmative vote of four (4) Board members shall be required for the approval of any requested action or motion placed before the Board.
- b) Voting shall be by a roll call vote.

- c) Roll call votes shall be recorded.
- d) If a vote results in a tie vote, i.e., 3 to 3 or 2 to 2, said matter shall be carried forward to the next regular meeting unless a special meeting is scheduled for the matter or another motion is made which results in 4 affirmative votes.
- e) If a motion receives less than four (4) affirmative votes, unless a tie vote as covered by 3.6 d) above, the matter shall remain undecided. For example, a motion to approve which results in a vote of 3 yes and 2 no is not carried. However, this shall not be construed to be a denial. Conversely, a motion to deny which results in a vote of 3 yes and 2 no is not carried, but such vote shall not be construed to be an approval. If the Board is unable to muster four affirmative votes to either approve, deny or table, the matter shall be automatically rescheduled to the next regular meeting of the Board.
- f) Any member of the Board shall state the reason for and be excused from discussing or voting on any issue in which that member has a financial interest other than the common public interest, or some other stated conflict of interest.
- g) Any member of the Board shall be excused from voting on any issue concerning that member's conduct.
- h) On all other issues, each member who is present shall be required to vote.

### 3.7 Voting - Alternate Members

- a) An Alternate member of the Board shall be able to vote when a full member is absent or unable to vote pursuant to 3.6 e) or f).
- b) If two (2) Alternates are present, the Chairperson shall designate the Alternate member with the longest service as the Alternate to vote.
- c) If two (2) full members are absent or unable to vote pursuant to 3.6 e) or f), both Alternates shall vote.
- d) The Alternate member having been designated, shall serve in the case until a final decision has been made.

### 3.8 Order of Business

- a) A written agenda for all meetings shall be prepared and followed, except that the Chairperson shall have authority to vary the sequence of agenda items if approved by the Board.

1. CALL TO ORDER
2. ROLL CALL
3. APPROVAL OF MINUTES
4. HEARINGS
5. MATTERS FOR CONSIDERATION (ACTION ITEMS), SUCH AS NEW BUSINESS, AND THE LIKE
6. MATTERS FOR DISCUSSION BY BOARD MEMBERS
7. MICELLANEOUS
8. ADJOURNMENT

- b) A written agenda for special meetings shall be prepared and followed, however the form as enumerated above shall not be necessary.

### 3.9 Miscellaneous - Public Comment on Items Not Scheduled

- a) During the Miscellaneous portion of the agenda, a member of the audience may address the Board on any issue which is not scheduled on that agenda.
- b) A member of the audience speaking during the Miscellaneous portion of the agenda shall limit his/her remarks to 5 minutes.

### 3.10 Additions to the Agenda

- a) No matters for consideration shall be accepted after the agenda packets have been prepared unless the Board, by separate action, accepts the matter for discussion/action, provided further, the matter is of such a nature that it does not require a Public Notice.

### 3.11 Rules of Order

All meetings of the Board shall be conducted in accordance with the Rules of Procedure and generally accepted parliamentary procedure unless such rules are suspended by a separate vote of the Board.

### 3.12 Beginning and Ending Times

- a) All Board meetings shall begin promptly at 7:30 p.m., unless posted on the meeting notice.

- b) Every effort should be made to conclude Board meetings by 11:00 p.m. unless:
  - 1) there are applicants remaining on the agenda, or
  - 2) staff needs direction on a matter that cannot wait until the next meeting.

### 3.13 Variances or Appeals

- a) No Variance or Appeal shall be considered by the Board unless the following conditions have been met:
  - 1) The request includes all of the information required by the City of Rochester Zoning Ordinance, as determined by the City Manager or his designated agent.
  - 2) All application data shall be submitted in accordance with the procedures of the Board and the Zoning Ordinance at least three weeks before the Board meeting at which the applicant wishes to be heard.
- b) The Board reserves the right to allow the City administration to limit its agenda. In this regard, a petitioner has no right to be heard or to be placed on the agenda of the first possible Board meeting.
- c) No variance or appeal will be considered during special meetings established for discussion purposes only.
- d) No matter for consideration which otherwise meets the requirements of these Rules of Procedure and the Zoning Ordinance may be omitted from the agenda for more than one (1) meeting (excluding special meetings established for discussion purposes only). That is, except through the fault of the petitioner, any item properly submitted for Board action must be noticed for, and considered at the second meeting for which it is eligible.

## 4. MINUTES

4.1 The Board minutes shall be prepared by the recording secretary.

4.2 The minutes shall contain the following:

- a) A record of attendance.
- b) A summary of the conditions or recommendations made on any action, and
- c) A synopsis of the discussion,



d) A complete restatement of all motions, and a record of all findings and determinations.

e) A record of roll call votes.

4.3 The minutes of the Board shall be deposited with the City Clerk. Proposed minutes shall be available for public inspection by eight business days after the meeting to which the minutes refer, and approved minutes shall be available by five business days after the meeting at which the minutes are approved.

## **5. OPEN MEETINGS AND FREEDOM OF INFORMATION PROVISIONS**

5.1 All meetings of the Board shall be open to the public and held in a place available to the general public, except for closed sessions as provided by the Act.

5.2 All deliberations and decisions of the Board shall be made at a meeting open to the public, except for matters considered at a closed session as provided by the Act.

5.3 A person shall be permitted to address a hearing of the Board under the rules established in subsection 3.4 and to address the Board concerning non-hearing matters under the rules established in subsections 3.9 and 3.10 to the extent that they are applicable.

5.4 A person shall not be excluded from a meeting of the Board except for breach of the peace committed at the meeting or a closed session as provided by the Act.

5.5 All records, files, publications, correspondences, and other materials are available to the public for reading, copying, and other purposes as governed by the Freedom of Information Act, except for such exemptions as provided by the Act.

## **6. AMENDMENTS**

These Rules of Procedure may be mended by the Board by a concurring vote pursuant to subsection 3.6 during any regular meeting, provided that all members have received an advance copy of the proposed amendments at least 3 days prior to the meeting at which such amendments are to be considered.

These Rules of Procedure are adopted on this 27<sup>th</sup> day of September, 2000.

CITY OF ROCHESTER BOARD OF APPEALS

\_\_\_\_\_  
Chairperson

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Vice Chairperson

**SUMMARY OF AMENDMENTS**

September 27, 2000

- Section 3.6: New paragraph d) & e).  
Re-alphabetized prior d), e), & f) to f), g), & h).
- Section 3.7: Re-alphabetized references in a) and c).
- Section 3.11: Revised.
- Section 3.12: Revised paragraph a).