

# Zoning Board of Adjustment

## Rules of Procedure

### ZBA Resolution No. 15-09

WHEREAS, the Zoning Board of Adjustment has been officially appointed by the Mayor with the approval of the City Council of the City of Marion, Iowa, in accordance with Section 176.36 of the Marion Zoning Ordinance; and,

WHEREAS, Section 176.36-1.E of the Marion Zoning Ordinance directs the Zoning Board of Adjustment to adopt rules of procedure.

NOW, THEREFORE, BE IT RESOLVED that the following By-Laws be adopted and by the passage of the motion by majority vote are declared to be the official rules of procedure of the Zoning Board of Adjustment.

#### ARTICLE I

##### AUTHORITY

Section 1. In all cases, the provisions of the Code of Iowa and the Marion Zoning Ordinance respecting the organization of the Board and the processing of appeals shall govern.

#### ARTICLE II

##### MEETINGS

Section 1. The regular meeting date of the Board shall be the 3rd Tuesday of each month.

Section 2. In the event that no appeals or other business is presented to the Board in accordance with Article VI of these By-Laws, the Chairperson may cancel the regular meeting. Members shall be notified of such cancellation at least twenty-four (24) hours previous to the scheduled time of meeting.

Section 3. Special meetings may be called by the Chairperson or in his/her absence the Vice-Chairperson. Notice by telephone or letter at least twenty-four (24) hours previous to the scheduled time shall be considered ample notice.

Section 4. In all cases, the Board shall abide by the provisions of the Open Meetings Law of the State of Iowa.

#### ARTICLE III

##### QUORUM

Section 1. A quorum of the Board shall be any three (3) members. A quorum shall be necessary for the transaction of any official business by the Board.

#### ARTICLE IV

##### VOTING

Section 1. Each member shall be entitled to one vote on all matters brought before the Board during a regular or special meeting in which the member is present and providing a quorum is present

Section 2. Voting on all appeals, conditional uses, and other business as provided under Section 176.36 of the Zoning Ordinance shall be by roll call vote. The concurring vote of three (3) members of the

Board shall be necessary to reverse any order, requirement, decision, or determination of the Building Official or to decide in favor of the applicant on any matter upon which it is required to pass under the Zoning Ordinance, or to effect any variance from the Zoning Ordinance. If less than five (5) members of the Board are present at the meeting, the applicant may request that his/her appeal be tabled until the next meeting of the Board.

Section 3. If a member has a conflict of interest with respect to any appeal case before the Board, that member shall advise the Board of such conflict of interest prior to the Board's consideration of the appeal. The member having a conflict of interest shall not participate in the discussion concerning the appeals case in question and shall abstain from voting on that appeal.

## **ARTICLE V**

### **OFFICERS**

Section 1. The officers of the Board shall be a Chairperson, Vice-Chairperson, and Secretary, each of whom shall be elected at the first meeting of the calendar year and they shall serve for a term of one year or until their successors have been elected. Officers are eligible to succeed themselves.

Section 2. The Chairperson shall preside at all meetings of the Board and is eligible to vote on all matters coming before the Board. The Chairperson may appoint such sub-committees as may from time to time be necessary.

Section 3. The Vice-Chairperson shall perform all duties and assume all the responsibilities of the Chairperson in his/her absence. The Vice-Chairperson shall be the parliamentarian.

Section 4. The Secretary shall be responsible for keeping records for proceedings of the Board and shall be responsible for issuing all necessary notices, agendas, reports, and related activities. The Secretary may make full use of City staff in discharging these responsibilities.

Section 5. In the absence of both the Chairperson and Vice-Chairperson, a Chairperson pro tempore shall be elected from among those members present at a meeting.

Section 6. In the absence of the Secretary, an acting Secretary shall be elected from among those members present at the meeting. The Acting Secretary shall be responsible for carrying out the responsibilities of the office with respect to any and all proceedings of the Board for that particular meeting. (ZBA Resolution No. 86-18)

## **ARTICLE VI**

### **APPEALS PROCEDURE**

Section 1. The appeals process as set in the Zoning Ordinance shall govern the actions of the Board.

Section 2. Appeals must be filed by close of business on the Tuesday of the week preceding the meeting date, to be included on the agenda for that subsequent meeting.

Section 3. The public hearing requirements as set forth in Section 176.36 of the Zoning Ordinance shall apply in all cases before the Board.

Section 4. The Board by majority vote may table action until the next scheduled meeting or at a special meeting to be held prior to the next scheduled meeting on an appeal under the following circumstances:

- a) The Board requires additional information from the applicant, Building Official, City Attorney, or other affected party.

- b) The Board determines that an on-site inspection by the Board is necessary.
- c) The Board determines that a sub-committee is necessary to report back to the Board.

Section 5. It is the policy and intent of the Board to render its decisions as expeditiously as possible, consistent with the need to obtain the necessary facts and information to make sound the proper decisions and findings.

Section 6. The Secretary shall issue the Notice of Disposition in writing describing all decisions and findings on appeals. Minutes and Notices of Dispositions shall be kept in City Hall and shall be available for public inspection.

## **ARTICLE VII**

### **ATTENDANCE**

Section 1. Frequent absences of a member may result in recommendation to the City Council that a new member be appointed.

Section 2. In keeping with gender balance on the Board in accordance with State Code the female alternate member shall fill the vacancy of any regular female member vacancy and the male alternate member shall fill the vacancy of any regular male member vacancy.

- a) Should the gender specific alternate not be available, the other alternate shall fill the vacancy
- b) Should more than one regular member vacancy exist, both alternates shall fill the vacancies regardless of gender.

## **ARTICLE VIII**

### **STANDARDS FOR REVIEW**

Section 1. The Board shall adhere to the standards for review as set forth in the Zoning Ordinance with respect to its review and consideration of requests for appeals, variances, exceptions, conditional uses and such other business as may come before the Board.

## **ARTICLE IX**

### **AMENDING BY-LAWS**

Section 1. An amendment to the By-Laws may be proposed by motion of a member at any meeting. Consideration and action of any amendment shall not take place until the next regular meeting of the Board. The voting procedure as described in Article IV, Section 2 shall apply to the voting requirements concerning amendments to the By-laws.

## **ARTICLE X**

### **PARLIAMENTARY AUTHORITY**

Robert's Rules of Order.

PASSED AND ADOPTED this 20th day of October, 2015.