

CITY OF DETROIT
BOARD OF ZONING APPEALS
Rules of Procedure

These Rules of Procedure are adopted pursuant to the Michigan Zoning Enabling Act, Michigan Public Act 110 of 2006, as amended, MCL §125.3101, et seq. (the “Michigan Zoning Enabling Act”), and Chapter 61 of the 1984 Detroit City Code, as amended, commonly known as the City of Detroit Zoning Ordinance. Wherever reference is made herein to the “Zoning Ordinance”, such reference shall mean City of Detroit Zoning Ordinance. Wherever reference is made herein to the “Code”, such reference shall mean the 1984 Detroit City Code. Whenever reference is made herein to the “Charter”, such reference shall mean the City of Detroit Charter of 2012. All words herein in any gender shall be deemed to include the masculine, feminine and neuter, and all words in the singular shall include the plural, and vice versa, as may be appropriate in the context herein.

ARTICLE I
ORGANIZATION

1.01 Enabling Authority

The City of Detroit Board of Zoning Appeals (the “Board”) is established by the Zoning Ordinance, and operates pursuant to the Zoning Ordinance and the Michigan Zoning Enabling Act.

1.02 Office

The Office of the Board shall be located in the Coleman A. Young Municipal Center, 2 Woodward Avenue, Room 212, Detroit, Michigan, 48226.

1.03 Membership

The Board shall be comprised of at least seven (7) members, one (1) from each of the non at-large districts, and appointed by the City Council. Board members shall serve for overlapping terms of three (3) years each. Any vacancy on the Board shall be filled by the City Council for

the remainder of the unexpired term in the same manner as the original appointment. Board members shall be residents of the City of Detroit. Pursuant to Section 601(8) of the Michigan Zoning Enabling Act, Board members may be paid a reasonable per diem, as determined by the City Council, and may be reimbursed for expenses actually incurred in the discharge of their duties.

1.04 Officers

(a) The officers of the Board shall consist of a Chairperson and a Vice-Chairperson, who shall be voting members. The Board shall annually, at its last regular meeting of each December, elect these officers from its membership. The Chairperson and Vice-Chairperson shall take office at the first regular meeting in January.

(b) The Chairperson shall preside at all meetings and hearings, subject to these Rules of Procedure. When the Chairperson is absent or unable to conduct a meeting or hearing, or during a period when a Chairperson's term on the board ends before a new Chairperson has been elected, the Vice-Chairperson shall preside. In the event that the Chairperson and Vice-Chairperson are both absent or unable to preside, and a quorum is present, then the most senior Board member then in attendance shall preside. In the event that the office of the Chairperson becomes vacant, the Vice-Chairperson shall assume the position of Chairperson for the unexpired term, and the Board shall elect a successor to the office of Vice-Chairperson for the unexpired term. All references to the Chairperson in these Rules of Procedure shall include the Vice-Chairperson, where appropriate.

(c) Pursuant to Section 601(9) of the Michigan Zoning Enabling Act, any member of the Board may be removed by the City Council for misfeasance, malfeasance or nonfeasance, upon written charges and after a public hearing. A member shall disqualify himself or herself from a

matter in which the member has a conflict of interest. Failure of a member to disqualify himself or herself from the matter in which he or she has a conflict of interest constitutes malfeasance.

1.05 Director; Staff

(a) The City Council shall appoint a Director of the Board, who shall serve a term of six (6) years. The Director shall not be a member of the Board and shall not vote on matters before the Board. The Director may be removed for cause by the City Council. Compensation of the Director shall be fixed by the City Council.

(b) The Director shall serve at the pleasure of the Board and shall be responsible for, and conduct and administer the affairs of, the office the Board, including, but not limited to, supervising the administration of all cases and other matters that come before the Board; conducting all official correspondence; mailing and posting all notices required of the Board by State law, the City Charter, the Code, these Rules of Procedure and Orders of the Board; causing the inspection of building premises, and conducting any special investigations as requested by the Board; preparing reports for the Board in anticipation of each case coming before the Board; causing the production of and maintaining all required records, files and indexes; and directing and supervising other staff in their service to the Board.

(c) The Director may employ other staff as needed, in accordance with the Zoning Ordinance and any other applicable law.

ARTICLE II
ETHICS AND CONFLICTS OF INTEREST

2.01 Ethical Duties

(a) Each member of the Board shall comply with the Ethical Standards of Conduct as provided in Section 2-106 of the City Charter, and with the provisions of this Article. In the event

of a conflict between City Charter provisions and the provisions of this Article, the City Charter shall prevail.

(b) A member of the Board shall neither solicit nor accept gratuities, favors or anything of monetary value from any individual or entity that has an interest in or may benefit from a decision of the Board.

(c) A member of the Board shall not obtain, for him or herself or for any person with whom he or she has an immediate familial or direct business relationship, any financial interest in a matter which may be affected by a decision of the Board made during the member's tenure on the Board.

(d) A member shall not appear before the Board as a petitioner, representative of a petitioner or as a party interested in a petition during the member's term of office.

(e) A member shall avoid the appearance of impropriety by not discussing cases for which notice of hearing has been provided to the petitioner, pursuant to Section 5.02, outside of a legally constituted meeting or in an individual conversation with staff. A member shall, further, disclose any communication he or she has with a petitioner or representative of a petitioner regarding that petitioner's case after notice has been provided to such petitioner, pursuant to Section 5.02. Such disclosure shall be made after the case has been called, pursuant to Section 5.04(a)(i).

(f) Members shall conduct themselves in a fair, courteous and understanding manner at all times in the discharge of their duties.

2.02 Conflicts of Interest and Voting

(a) A member of the Board shall abstain from discussing or voting on any matter in which that member is involved in a real or apparent conflict of interest. Potential conflicts of

interest shall be evaluated on a case-by-case basis with reasonable consideration and application of the principles provided in this Section. Circumstances in which a conflict of interest may exist shall include, but are not necessarily be limited to:

(i) Matters in which the Board member or any individual with an immediate familial or direct business relationship with the Board member has a direct financial or beneficial interest.

(ii) Matters involving property that is wholly or partially owned by the Board member or which is adjacent to property owned by such Board member.

(iii) Matters in which any individual with an immediate familial or direct business relationship with the Board member is an applicant or agent for an applicant, or has a direct financial or beneficial interest in the outcome.

(b) A Board member who believes that he or she is subject to a conflict shall, immediately, upon first knowledge that the potential conflict exists: (i) declare that a potential conflict exists, (ii) disclose, except where it violates a confidence, the general nature of the conflict and (iii) recuse him or herself from the matter.

(c) In the event that a Board member questions the conflict of a Board member who has recused him or herself, or raises a potential conflict regarding another Board member, a majority of the other Board members then present may vote to declare the member at issue ineligible to participate in the matter due to a conflict of interest.

(d) A Board member who recuses him or herself, or who is declared by the Board to be ineligible to participate due to a conflict of interest, shall:

(i) Cease to participate in any manner when the matter is discussed, voted on, or otherwise acted on at Board meetings or in any other forum.

(ii) During deliberation of the matter, leave the area where Board members sit, until action on the matter is concluded.

(e) If the recusal of a Board member under this Section results in the loss of a quorum, then the matter, including testimony shall be postponed until the next regularly scheduled meeting at which an eligible quorum is present.

(f) For purposes of this Article, an “immediate familial relationship” with a Board member shall include a parent, sibling, spouse, domestic partner, or child of the Board member, as well as anyone residing in the same residence as the Board member and anyone who is financially dependent on the Board member. Also, for purposes of this Article, a “direct business relationship” with a Board member shall include any individual or entity that is an employer, employee, or business partner of the Board member, as well as any individual or entity with a controlling financial interest in an entity in which the Board member also has a financial interest or that employs the Board member.

ARTICLE III **MEETINGS**

3.01 Parliamentary Authority; Open Meetings Act

(a) The parliamentary authority of the Board shall be prescribed by the current edition of Robert’s Rules of Order Newly Revised, which is hereby adopted and made part of these Rules of Procedure, except as modified by State law, the City Charter, the Code or by these Rules of Procedure.

(b) All statements and questions from Board members, Board staff and representatives of City Departments shall be directed through and acknowledged by the Chairperson prior to being made.

(c) All meetings of the Board shall be conducted in accordance with the Michigan Open Meetings Act, Michigan Public Act 267 of 1976, as amended (the “Open Meetings Act”). Public comment shall be allowed at all meetings and for each case hearing. The Board may establish reasonable time limits for public comments and audience participation during particular meetings and hearings; provided, that such time limits shall be stated at the opening of the respective public comment periods, and, provided further, that in no instance shall comment time be limited to less than one (1) minute per speaker. The Chairperson may, in his or her discretion, extend an individual’s speaking time.

(d) In the event that a Board member has a question regarding Board policies or procedures outside of a scheduled meeting time, the Board member shall submit his or her question or comment in writing to the Director and the Director shall, within a reasonable time, provide a written response to the Board member or, if necessary and in consultation with the Board Chairperson, place on the agenda for a regularly scheduled meeting or a special meeting duly called in accordance with Section 3.03, a Board discussion on the question or comment.

3.02 Regular Meetings

(a) Regular Board meetings shall be held each Tuesday at 9:00 a.m., or as otherwise scheduled by resolution of the Board. In accordance with the Open Meetings Act, the schedule of upcoming meetings for the calendar year shall be posted within ten (10) days after its approval by the Board at the annual organizational meeting. A change in the schedule of regular meetings shall be approved by the Board, in accordance with Section 3.04(a) herein, and notice of the change shall be posted within three (3) days after the change is approved.

(b) The first meeting in January shall be the annual organizational meeting. At this meeting, the Chairperson and Vice-Chairperson elected the previous December shall take office, and the Board shall establish the annual meeting schedule and review the Rules and Procedures.

(c) At the last meeting each December, the Director shall provide a report, in writing and presented in summary form, to the Board, summarizing the activities and management of cases of the past year, and making any recommendations regarding the same for the upcoming year.

3.03 Special Meetings

Special meetings may be called by the Chairperson of the Board upon the written requests of three (3) Board members, provided that not less than twenty-four (24) hours notice is given to each Board member before the time set for the meeting, and provided further that notice of any such special meeting is posted not less than eighteen (18 hours) before the time set for the meeting, in accordance with the Michigan Open Meetings Act. Any special meeting called for the purpose of hearing or deciding on a case or cases before the Board shall also comply with the notice requirements under Section 5.02 herein and the Zoning Ordinance. The announcement of a special meeting at any meeting at which all Board members are present shall constitute sufficient notice of such meeting to Board members under this Section, but shall not fulfill the requirement for notice under the Open Meetings Act or the Zoning Ordinance.

3.04 Quorum; Voting

(a) Four (4) members of the Board then serving shall constitute a quorum for the conduct of business.

(b) Except as otherwise provided in these Rules of Procedure, actions taken by the Board shall require a majority vote of the members then serving. As a point of clarity, in the event that a quorum is validly constituted by the presence of four (4) members, pursuant to subsection

(a), the unanimous vote of those four (4) members is required to pass any action. Except as otherwise provided in these Rules of Procedure or as required by an applicable law, voting shall be by voice and a show of hands. If a vote is not unanimous, a roll call vote shall be taken and recorded in the minutes.

(c) The concurring vote of a majority of the members of the Board then serving shall be necessary to reverse or adjust any order, requirement, decision or determination of any administrative official, or to decide in favor of an applicant (alternatively referred to herein as “applicant” or “petitioner”) on any matter upon which the Board is required to pass under the Zoning Ordinance, or to grant a variance pursuant to the Zoning Ordinance, except that, pursuant to Section 604(10) of the Michigan Zoning Enabling Act, the concurring vote of a two-thirds (2/3) majority of the members of the Board then serving shall be necessary to approve a variance from a use of land through a Hardship Relief Petition as set forth in Article IV, Division 7 of the Zoning Ordinance. As a point of clarity, to achieve the two-thirds (2/3) vote requirement the concurring vote of 5 out of 7 Board members then serving is required to approve a variance from a use of land through a Hardship Relief Petition. In the event that a quorum of four (4) members is present for a hearing on a Hardship Relief Petition, the Board shall adjourn the case until such date as at least five (5) members are present to validly act on such petition.

3.05 Record

The Board shall cause to be prepared and shall keep minutes of all of its proceedings and resolutions as a record of the Board’s actions and decisions for each meeting. The minutes shall include, at a minimum, a list of those members present and not present at each meeting; and each resolution, motion or other matter acted upon by the Board, together with the grounds for each decision and the vote of each member upon each question, or, if failing to vote, a record of such

failure to vote. In addition, a record of proceedings of each hearing shall be kept, which shall include names, where given, of each person appearing before the Board; the verbatim testimony offered by all witnesses in the case and all personal knowledge as stated by members of the Board considered by the Board in reaching its decision; and all documents and exhibits considered in the hearing. All records, including the minutes, shall be filed in the Office of the Board, and shall be public records.

3.06 Agendas; Order of Business

(a) An agenda for each meeting shall be prepared by the Director or his or her designated staff member. Agendas and supporting documentation for each scheduled hearing shall be made available to Board members at least one week before the meeting's scheduled start time.

(b) The order of business at each regular meeting shall be as follows. The order of business may be suspended or modified during a meeting by a majority vote of those members present.

- (i) Call to Order.
- (ii) Roll Call.
- (iii) Approval of Agenda.
- (iv) Approval of Minutes of Previous Meeting.
- (v) Communications and Reports.
- (vi) Old Business.
- (vii) Case Hearings.
- (viii) New Business.
- (ix) Public Comment on Non-Agenda Items.
- (x) Adjournment.

ARTICLE IV
APPLICATIONS

4.01 Filing of Applications

Applications for variances, modifications or adjustments of the Zoning Ordinance or appeals from any order, requirement, decision or determination that is made by an administrative official in the administration of the Zoning Ordinance, or any decision made by the Buildings, Safety, Environmental and Engineering Department or the Planning and Development Department on which the Board is authorized by the Zoning Ordinance to review and decide an appeal, may be made in accordance with the Zoning Ordinance. Each application for appeal shall be filed by the applicant within fourteen (14) calendar days of the date of decision of the body or officer from whom the appeal is taken. Each Board member shall be provided a physical or electronic copy of all documents to be considered with each application at least one week prior to the time scheduled for the respective hearing.

4.02 Required Information

(a) The Director may require an applicant to provide such information and data as may be necessary to fully advise the Board and may place a deadline on an applicant to provide such information and data prior to the scheduled hearing. Refusal or failure by an applicant to comply with any such requirements shall be grounds for the dismissal of the application by the Board. Applications shall be made on forms approved by the Board and available from the Buildings, Safety, Environmental and Engineering Department. In addition to the information requested in such forms and by the Director, any application, other than an application for hardship relief under subsection (b), shall be considered complete only if it contains, at a minimum, the following information:

(i) Proof of ownership or other proof of site control of the property at issue, or, if the applicant is a lessee, proof of lease and written permission from the property owner to use the property for the purpose proposed by the applicant. If the subject property is owned or leased by a corporate entity and the petitioner is an individual, proof of interest in the property shall include an explanation of the relationship between the petitioner and the corporate entity.

(ii) A clear and accurate description of the proposed work or use.

(iii) A plan, or lot plots, drawn to scale and showing the actual shape and dimensions of the lot, the existing buildings and structures, lines within which any proposed building or structure is to be erected or altered, the existing and intended use of each building or part of a building, and such other information with regard to the property as may be deemed necessary to properly provide for the hearing of appeal.

(iv) Specific reference to the section or sections of the Zoning Ordinance under which it is claimed the request or appeal may be granted.

(v) With respect to appeals, the principal points upon which the appeal is being made, based on the application for which the Buildings, Safety, Environmental and Engineering Department or other administrative official issued a refusal, order or decision.

(b) In addition to any information requested in applicable forms provided by the Buildings, Safety, Environmental and Engineering Department or by the Director, an application for hardship relief shall include the information required by Section 61-4-104 of the Zoning Ordinance. Pursuant to Section 61-4-105 of the Zoning Ordinance, in the event that any such required information is not reasonably available, the petitioner requesting hardship relief shall file

with the petition a statement of the information that cannot be obtained and shall describe the reasons why such information is unavailable.

(c) The Director shall prepare or cause to be prepared a staff report to accompany each application. The report shall include (i) a summary of the request and pertinent facts related to the property, (ii) the application and the history of the application; (iii) a photograph or other proof, obtained by staff during an inspection of the property, of posting of the notice of hearing as required of the petitioner under Section 61-3-12 of the Zoning Ordinance; and (iv) a statement, as reviewed and confirmed by the Law Department, of the petitioner's standing to bring the case before the Board. A staff report to accompany an application for hardship relief shall include, in addition to the information above, a statement of the staff's findings regarding the claim that the property at issue has been subject to a denial of all reasonable economic use.

4.03 Stay of Proceedings

Pursuant to Section 61-4-77 of the Zoning Ordinance, an appeal stays all proceedings in furtherance of the action appealed from, unless the director of the Buildings, Safety, Environmental and Engineering Department, or of the Planning and Development Department, from whose department the appeal is taken, certifies to the Board that by reason of facts that are stated in the certificate a stay would cause, in his or her opinion, imminent peril to life or property. In such case, proceedings shall not be stayed other than by a restraining order which may be granted by the Board or by a court of record, on application, on notice to the respective director from whose department the appeal is taken.

ARTICLE V
HEARINGS AND HEARING NOTICES

5.01 Hearing Dockets

Each application properly filed with the required information and data, as provided in Article III of these Rules of Procedure, shall be numbered serially and hyphenated with the calendar year, docketed and placed on the calendar of the Board by the Director for a hearing within thirty (30) days of receipt or as reasonably soon as the essential information and data can be properly assembled, as determined by the Director. The docket shall be maintained by the Director, shall be numbered using the case number and the year (e.g., 01-17) and shall include the name and address of the applicant; the nature and type of request or appeal; the location of the premises at issue; the scheduled date of the hearing and any postponements or re-hearings; the date or dates on which notices are delivered, if by hand, or mailed; and any additional steps taken and the final disposition of the case. When an application is docketed and placed on the Board's calendar, the Director shall cause all inspection reports, maps, exhibits and other necessary information and data to be properly assembled and prepared for the respective hearing.

5.02 Notices

(a) Notice of any hearing shall be given in accordance with the Zoning Ordinance, the Zoning Enabling Act and the Open Meetings Act, as applicable. The Board shall cause notice to a petitioner to be delivered personally or postmarked by U.S. mail not less than thirty (30) days prior to the date set for that petitioner's hearing, to allow the petitioner to comply with the requirement in Section 61-3-12 of the Zoning Ordinance to post notice of the hearing on the property that is the subject of the hearing. The Board may, but is not required to, provide notice to a petitioner's representative if notified of the representative's name, address and relationship to the petitioner. The Board may honor a request to provide a petitioner's representative with such

notice as a courtesy, however notice provided solely to a petitioner under this subsection shall be sufficient notice pursuant to applicable State law, the Zoning Ordinance and these Rules of Procedure.

(b) In addition to the notice requirement provided in subsection (a), above, the Board shall also cause notice to be provided to all persons to whom any real property within a minimum of 300 feet of the premises that is the subject of a hearing shall be assessed, and to the occupants of all structures within a minimum of 300 feet. Such notice shall be delivered personally or by U.S. mail, addressed to the respective owners and tenants as of the address given on the most recent assessment roll, not less than fifteen (15) days prior to the date scheduled for the hearing, unless a greater notice period is required by applicable law. If a tenant's name is not known, the term "occupant" may be used. Community improvement associations registered with the Buildings, Safety, Environmental and Engineering Department and located within a minimum of 300 feet of the premises at issue shall be notified. Notice shall be given to the Planning and Development Department and, with respect to property located within or adjacent to an officially designated historic district, the Historic District Commission.

(c) Any notice of hearing shall indicate the time and place of the hearing, the property that is the subject of the hearing, the nature of the petition and the relief requested. A copy of each notice and a list of persons to whom the notice was mailed shall become a part of the record of the Board.

5.03 Authority to Issue Subpoenas

The Board may issue subpoenas to require the attendance and testimony of witnesses, to administer oaths or to compel the production of documents or other evidence that is pertinent to a matter before the Board. Upon failure of any witness to appear or party to produce documents or

other evidence, the Board may apply to the Circuit Court of Wayne County for an order compelling the attendance of said witnesses, the giving of testimony before the Board and the production of any said documents or other evidence, making refusal subject to such sanctions as the Court may deem it appropriate to impose.

5.04 Procedure

- (a) The procedural order of each hearing shall be as follows:
 - (i) Calling of the case by the Chairperson.
 - (ii) Reports of Director and staff.
 - (iii) Petitioner's presentation.
 - (iv) For appeals by petitioner other than subject property owner or tenant (i.e., "community appeals") only: Presentation by property owner or representative.
 - (v) Reports, if applicable, of City Departments.
 - (vi) Board questions to petitioner.
 - (vii) Public comment (statements in support of petition followed by those opposed).
 - (ix) For community appeals only: rebuttal and final remarks of property owner or representative.
 - (x) Rebuttal and final remarks of petitioner.
 - (xi) Closing of hearing, followed by Board application of applicable Approval Criteria (as defined in Article VI), discussion, motion and decision, in accordance with Article VI herein.
- (b) As provided in Section 61-2-46 of the Zoning Ordinance, at any hearing, any interested party may appear in person or by agent or attorney and offer evidence, including testimony. Testimony shall be given under oath or affirmation, and all evidence, including testimony, shall be presented publicly. A petitioner may present such witnesses as deemed necessary, and the petitioner and any such witnesses shall be given a reasonable time to present the petitioner's case. The Board may take judicial notice of facts to the same extent and in the

same manner as courts of record and may consider any relevant facts with the personal knowledge of any member of the Board which are stated into the record by such member.

(c) Any applicant may, with the consent of the Board, withdraw his or her application at any time prior to the final action thereon, except that if a motion on such application has been made and is pending, such motion shall have precedence.

5.05 Advisements

The Board may act to take a case under advisement for one or both of the following reasons:

(a) Any Board member is absent for a hearing.

(b) The Board determines that additional information is needed, that cannot be reasonably obtained during the time then currently set for the hearing, in order to make its decision.

(c) The Board may take a case under advisement by majority vote of the members then present. A case taken under advisement under this Section shall be taken under advisement until a date certain, as determined by the Board, and any Board member shall be permitted prior to the new hearing date to review the record, including an audio tape or other recording, of the hearing at which the case was taken under advisement. A motion to take a case under advisement for the purpose of obtaining additional information, under subsection (b), shall include a statement of the reasons and the additional information needed for the Board to make a decision.

(d) When a case that has been placed under advisement comes before the Board for a vote, the case is not opened anew; rather, the Board shall first hear any additional information requested, if any was requested; shall allow public comment, whether by the petitioner or other members of the public; and shall then proceed to discussion, motion and full Board vote on the matter. In the event that a motion was made on the case prior to deciding to take the case under advisement, a new motion shall be made and a new vote taken.

5.06 Requests for Adjournments

(a) Requests for adjournment may be granted or denied at the discretion of the Board.

Prior to the public hearing on a matter, the petitioner may request an adjournment of the case. A request for adjournment shall be made by the petitioner and shall comply with the following:

(i) The request shall be made in writing, signed by the petitioner or the petitioner's authorized agent, and provided to the Board not later than the Friday prior to the date set for the hearing. The request for adjournment shall include a statement of the reasons for the request, including an explanation of why the petitioner is not prepared for the case to be heard by the Board on the originally scheduled hearing date.

(ii) In addition to, but not in place of, the written request required under subsection (i), the petitioner or the petitioner's authorized agent may be present at the time set for the hearing and request the adjournment in person or further explain the basis for the request; provided that, whether or not the petitioner or an authorized agent is not present upon the calling of the case, the Board may deny the request for adjournment, hold the hearing and make a decision on the case at such time, in accordance with subsection (b) herein.

(b) A reasonable request for adjournment may be granted only after the case has been called, pursuant to Section 5.04(a)(i) herein, and upon a majority vote of the Board members then present. The Board shall act on any request for adjournment as it does for case decisions, pursuant to the procedures for decisions in Article VI herein, except that any action on a request for adjournment is not required to include a statement of the Zoning Ordinance Approval Criteria (as defined in Section 6.01), and the findings of fact related to such Approval Criteria, on which such action is being taken. If the request is approved, the Board shall specify the date certain until

which the case will be adjourned or direct the Director to determine such date following the hearing. The record shall reflect (i) the basis for the request for adjournment, (ii) the Board's decision with respect to the request for adjournment and (iii) if approved or approved with conditions, the date until which the case will be adjourned or a statement that the Director shall determine such date following the hearing.

5.07 Requests for Re-hearings

An application for re-hearing shall be made in writing and shall state the reasons for the re-hearing request. No application to the Board which has been denied wholly or in part shall be resubmitted for a period of one (1) year from the effective date of said order of denial, except on the grounds of new evidence or proof of a change of conditions found to be valid by the Board or upon remand from a court.

ARTICLE VI
DECISIONS

6.01 Decisions

(a) The Board may approve or deny a petitioner's request or appeal, and an approval may be granted with or without conditions. The final decision of any variance, modification or appeal by the Board shall be made in accordance with the voting procedures under Article III of these Rules of Procedure, and shall be either an approval with conditions or without conditions, a modification or a denial of the application. Any motion by a Board member to approve, modify or deny an application shall include a statement of the applicable criteria pursuant to which an approval may be made under the Zoning Ordinance (the "Approval Criteria"), and the findings of fact and reasons for which such motion to approve, modify, or deny is being made, including, for hardship relief petitions the findings under Section 61-4-126 of the Zoning Ordinance. Any

condition placed on an approval shall be reasonably related to one or more of the Approval Criteria on which the Board's decision is made, and such relationship shall be stated into the record.

(b) With respect to petitions for hardship relief, the Board shall apply the "All Reasonable Economic Use" standard under Section 61-4-124 of the Zoning Ordinance in determining whether a denial of an application has resulted in a denial of all reasonable economic use of the property. The Board may adopt any legally available incentive or measure that is reasonably necessary to offset any denial of reasonable economic use, and may condition such incentives upon approval of specific development plans.

(c) If a motion in favor of an application fails to receive the required number of votes, in accordance with the voting procedures under Article III of these Rules of Procedure, the action shall be deemed equivalent to a denial and said denial shall be formally entered on the record.

(d) Pursuant to Section 61-2-57 of the Zoning Ordinance, the decision in each case shall not become effective until 4:00 p.m. on the third business day after the Board has voted thereon, unless the Board finds the immediate effect of such decision necessary for the preservation of property or personal rights and so certifies on the record. With respect to any case not given immediate effect as provided herein, a member of the Board on the prevailing side of the decision may, not later than 4:00 p.m. on the third business day after the Board's vote, notify the Director in writing that he or she wishes to move for a reconsideration of the decision. Upon receipt of such notice, the Director shall enter a copy of the notice, including the date and time of delivery, whether in person, via U.S. Mail or electronically, together with the name of the member, in the record of the case and advise the Board that such motion will be made and considered at its next meeting. At such meeting, the member that requested the reconsideration shall make the motion to reconsider the decision, and the Board shall vote on the reconsideration. Following approval of

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a reconsideration, a new motion and full vote of the Board shall be required, either (i) for a final decision on the underlying case or (ii) to take the case under advisement, pursuant to Section 5.05. Prior to any such new motion, the Board may hear new information related to the underlying case.

(e) All decisions under this Section shall be documented in accordance with the “Decision and Order” form, as revised from time to time by the Director and delegated staff and provided to the Board. All motions made in reaching such decisions shall include, at a minimum, findings of fact in accordance with the applicable Approval Criteria for each case, and, with respect to approvals, what conditions, if any, are to be applied. In addition, each “Decision and Order” form shall include language pursuant to Section 61-2-55 of the Zoning Ordinance, providing that where any conditions prescribed by the Board are not complied with within six (6) months from the issuance of a land use permit and maintained at all times thereafter, the Buildings, Safety, Environmental and Engineering Department shall hold a show-cause hearing in accordance with Section 61-5-53 of the Zoning Ordinance. Immediately upon revocation of the land use permit, the zoning grant by the Board becomes null and void.

(f) Decisions and Orders of the Board shall be public records. A copy of each Decision and Order shall be included in the record of proceedings of the case; shall be mailed to the applicant; shall be mailed to anyone who testified at or submitted testimony to the public hearing and provided a mailing address; and shall be provided upon request to the Buildings, Safety, Environmental and Engineering Department and to other interested agencies and departments of the City.

**ARTICLE VII
AMENDMENTS**

7.01 Amendments

Amendments to these Rules of Procedure shall be made in accordance with the procedures for the promulgation of administrative rules under Section 2-111 of the City Charter.

Approved by City Council November 14, 2013 (corrected October 31, 2019)

APPEAL FEE SCHEDULE

BOARD OF ZONING APPEALS

NEW BUILDINGS, ADDITIONS & ALTERATIONS (PER STRUCTURE).....	\$1,200.00
CHANGE OF USE OF ANY BUILDING OR STRUCTURE...(NON-CONFORMING USE).....	\$1,200.00
DIMENSIONAL VARIANCE.....(OVER TEN (10) PERCENT).....	\$1,200.00
USE VARIANCE.....	\$1,200.00
REGULATED USES (PAWNSHOPS, BARS, ETC).....	\$1,200.00
CONTROLLED USES(SDM, SDD, ETC)	\$1,200.00
SIGNS.....	\$1,200.00
PARKING LOTS.....	\$1,200.00
PLANNING & DEVLOPMENT DEPARTMENT (Site Plan Denial).....	\$1,200.00
APPEALS FROM BUILDINGS AND SAFETY DEPARTMENTS HEARING OFFICER DECISION BY (BSEED Denial) Hearing.....	\$1,500.00
REHEARING.....	\$1,200.00
TIME EXTENSION REQUEST TO PICK UP REQUIRED BUILDING PERMIT Over-due up to Six (6) Months.....	\$600.00
Over due on one (1) year or more. A new case MUST be filed.....	\$1,200.00
DISMISSAL OF PETITION REQUEST BY PETITIONER WITH RETURN OF FEE.....	\$120.00
ADJOURNMENT BY PETITIONER AFTER PUBLIC NOTIFICATION.....	\$300.00
REQUESTED CORRECTIONS AND/OR CHANGES ON THE DECISION AND ORDER FROM PETITIONER.....	\$450.00
MODIFICATIONS OF EXISTING BZA GRANTS..... (i.e. Appeals of conditions, etc)	\$1,200.00
APPEALS FROM BUILDINGS AND SAFETY ENGINEERING DEPARTMENT'S HEARING OFFICER, DECISION BY RESIDENT AREA COMMUNITY ORGANIZATIONS AND RESIDENTS ONLY WITHIN 300 FEET.....	\$0.00
TRANSCRIPT (Per Page).....	Court Reporter Rate Per Page
UNCERTIFIED HEARING RECORDINGS	\$5.00 per disk

The Board of Zoning Appeals meets Tuesday's at 9:00 a.m. on the 13th Floor in the Erma L. Henderson Auditorium, Coleman A. Young Municipal Center, 2 Woodward Avenue.