

**MODEL RULES OF PROCEDURE FOR A TOWN ZONING BOARD OF APPEALS
(For Towns that Have Adopted Village Powers)**

SECTION 1.00 ESTABLISHMENT

The Zoning Board of Appeals of the Town of _____ will be governed by Sections 60.62, 61.35, and 62.23 of the Wisconsin Statutes, by the Town Zoning Ordinance, and by these rules of procedure.

SECTION 2.00 MEMBERSHIP

The Board will consist of five members appointed by the Town Chair, and confirmed by the Town Board, for staggered terms of three years.

- A. The **Chair of the Board of Appeals** will be designated by the Town Chair and will preside at meetings of the Board; supervise the work of the Secretary; and decide all points of procedure unless otherwise directed by a majority vote of the Board.
- B. The **Vice-Chair** will be selected by a majority vote of the Board and serve when the Chair is absent.
- C. **One Member** will be a Town Plan Commissioner.
- D. **Two Alternate Members** will be appointed by the Town Chair for a term of three years. The first alternate will act only when a regular member is absent or refuses to vote because of interest. The second alternate will act only when the first alternate is unable to act, is absent, or is already seated.
- E. A **Secretary** will be appointed by the Chair at the first meeting of the Board in each year. The Secretary will prepare all correspondence for the Board; receive and file all referrals, applications, papers, and records; prepare, publish, and mail all notices required; and prepare and keep all minutes and records of the Board's proceedings.
- F. The **Zoning Administrator** will attend all meetings for the purpose of providing technical assistance when requested by the Board.
- G. **Official Oaths** will be taken by all members in accordance with Section 19.01 of the Wisconsin Statutes within ten days of receiving notice of their appointment.
- H. **Vacancies** will be filled for an unexpired term in the same manner as appointments for a full term.

SECTION 3.00 MEETINGS

- A. **Meetings** will be held at the call of the Chair of the Board of Appeals or upon the written request of three members of the Board to the Chair. Meetings will be held at the *Town Hall*, (insert address), Wisconsin.

- B. **Notice of Meetings** will be provided to all Board members at least ten days before the meeting.
- C. **Meetings Will be Open** to the public.
- D. **Closed Sessions.** The Board may go into closed session for the purposes enumerated in Section 19.85 of the Wisconsin Statutes.
- E. **A Quorum** will be four members. If a quorum is present, the Board may take action by a majority vote of the members present.
- F. **The Order of Business** at meetings will be substantially as follows:
 - 1. Call to order.
 - 2. Roll call and declaration of a quorum.
 - 3. Reading and approval of minutes from the previous meeting.
 - 4. Communications and reports.
 - 5. Hearing of continuances.*
 - 6. Hearing of new appeals and applications.*
 - 7. Adjournment.
- G. **Minutes** of the proceedings and a record of all actions will be kept by the Secretary, recording all motions, the vote of each member upon each motion, or indicating if a member was absent or failed to vote. The minutes will also include the reasons for the Board's determination and its findings. These records will be immediately filed with the Town Clerk and will be a public record.

SECTION 4.00 APPEALS AND APPLICATIONS

Appeals from a decision of the Zoning Administrator may be made by any person aggrieved or by any officer, department, board, or commission of the Town. Applications may be made by the owner or lessee of the structure, land, or water affected. The Board upon its own motion supported by the affirmative vote of at least four members may review any action of the Zoning Administrator.

- A. **Time.** Such appeals will be filed with the Secretary within 30 days after the date of written notice of the decision or order of the Zoning Administrator. Applications for *conditional*, temporary, utility, unclassified, and substituted uses may be made any time in accordance with the Zoning Ordinance.
- B. **Form.** Every appeal or application will be made in duplicate to the Secretary on forms furnished by the Zoning Administrator. The applicant or appellant will provide all information required on the form and any additional information requested in writing by the Zoning Board of Appeals or Zoning Administrator. Failure to supply such information will be grounds for dismissal of the appeal or application. The Zoning Administrator will transmit to the Secretary all papers constituting the record upon which the appeal is being taken.
- C. **Fee** for each appeal or application will be \$_____, payable to the *Town Treasurer*, with the receipt attached to the appeal or application.
- D. **A Review and Recommendation** from the Town Plan Commission for each application will be requested by the Zoning Board of Appeals. The Board will consider any alternatives or recommendations suggested by the Commission.

- E. **Resubmission.** No appeal or application which has been dismissed or denied will be considered again within one year of the Board's decision except by the affirmative vote of four or more members and upon a finding that substantial new evidence has been submitted which could not reasonably have been presented at the previous hearing.

SECTION 5.00 HEARINGS

- A. **Notice** of the time, date, and place of the hearing of an appeal or application will be published in the official newspaper or posted, as required by State Statutes, not less than 10 days prior thereto and mailed to the Board members, Zoning Administrator, appellant or applicants, and parties in interest.
- B. **Appearances.** Any party may appear in person or by agent or attorney. In the absence of an appearance for or against an application or appeal, the Board may deny, dismiss, table, or grant the matter on the records before it.
- C. **Oaths and Witnesses.** The Chair may require witnesses to be sworn before testifying and may compel the attendance of witnesses by subpoena.
- D. **Order of Business** at hearings will be substantially as follows:
 - 1. Statement of the case by the Secretary.
 - 2. Explanation by the Zoning Administrator.
 - 3. Appellant's or applicant's side of the case.
 - 4. Testimony of interested parties.
 - 5. Appellant's or applicant's rebuttal.
 - 6. Rebuttal by the opposition.
- E. **Adjournment.** When all appeals cannot be disposed of on the day set, the Board may adjourn; and such adjourned day will be construed as a continuance of the hearing.
- F. **Withdrawal.** An appellant or applicant may withdraw an appeal or application at any time prior to decision thereon; but if a motion is pending to grant, deny, or dismiss the appeal, such motion will have precedence. Withdrawal will not entitle the appellant or applicant to return of the filing fee.

SECTION 6.00 DECISIONS

- A. **Time.** The Board will render its decision within 30 days after the final hearing and will transmit a signed copy of the Board's decision to the appellant or applicant, Zoning Administrator, and Town Plan Commission.
- B. **Voting.** If a quorum is present, the Board may take action by a majority vote of the members present.
- C. **Record.** The Secretary will record the motion and vote of each member upon each motion in the minutes, or if the member is absent or fails to vote, will indicate such fact in the minutes.
- D. **Personal Interest.** No Board member will participate in the decision of, or vote upon, any case in which he or she has a personal interest, directly or indirectly; and the Chair will direct the alternate member to act in his or her stead.

- E. **Form.** The final disposition of an appeal or application will be in the form of a written resolution signed by the Chair and Secretary and attached to the minutes. Such resolution will show the reasons for the Board's determination and its findings of fact and will either affirm, reverse, or modify the order, requirement, decision, or determination appealed, in whole or in part.
- F. **Conditions** imposed with respect to any permit or variance will be stated in the resolution embodying the Board's decision and will also be set forth in the zoning permit. Such permit will be valid only as long as the conditions upon which it is granted are observed.
- G. **Variances, Substitutions, and Permits** granted by the Board will expire within six months unless substantial work has commenced pursuant to such grant.

SECTION 7.00 AMENDMENTS

These Rules of Governance may be amended, suspended, or revoked by a majority vote of the full Board at any meeting.

SECTION 8.00 CONFLICT

Whenever any conflict occurs between these Rules of Procedure and the laws of the State of Wisconsin or ordinances of the Town, the State laws and the Town ordinances shall prevail.

SECTION 9.00 EFFECTIVE DATE

These Rules of Procedure shall be effective upon adoption by a majority of the Board of Appeals and filing with the Town Clerk.

Chair, Board of Appeals

Secretary

Date Adopted or Amended: _____

Date Filed: _____

**Note: Meeting agendas and public notices should specify the applications and appeals being reviewed under "Hearing of Continuances" and "Hearing of New Appeals and Applications" in order to comply with open meeting requirements.*

00109230-2.DOC
NMA/RRK/lgh
10/17/12; 2/1/07