

City of Escanaba

Zoning Board of Appeals

Rules of Procedure

May 15, 2002

RESOLUTION

WHEREAS, a predetermined Rules of Procedure for Zoning Board of Appeals meetings will be a most expedient means of ensuring the orderly conduct of meetings for the City of Escanaba; and

WHEREAS, it is provided in Act 207 of the Public Acts of Michigan for 1921 (MCL 125.581 et. Seq., MSA 5.2931 et seq) as amended and the Escanaba Zoning Ordinance, Appendix A that the Zoning Board of Appeals shall determine its own rules and order of business,

NOW, THEREFORE, BE IT RESOLVED, that the following Rules of Procedure shall govern the deliberations and meetings of the Zoning Board of Appeals of the City of Escanaba.

Chairman
Zoning Board of Appeals

1. AUTHORITY

- 1.1 **General.** In order to hear and decide appeals of orders, decisions or determinations made by the building official and/or code official relative to the application and interpretation of the code, there shall be and is hereby created a Zoning Board of Appeals consisting of six (6) members who are appointed by the Mayor of Escanaba with City Council consensus. The Code Official shall be an ex-officio member of and shall act as secretary to said Zoning Board of Appeals but shall have no vote on any matter before the Zoning Board of Appeals. The Zoning Board of Appeals shall be appointed by the governing body and shall hold office at its pleasure. The Zoning Board of Appeals shall adopt rules of procedure for conducting its business, and shall render all decisions and findings in writing to the appellant with a duplicate copy to the building official.
- 1.2 **Limitations of Authority.** The Zoning Board of Appeals is established in accordance with Act 207 of the Public Acts of Michigan for 1921 (MCL 125.581 et seq., MSA 5.2931 et seq.) as amended, which in addition to the general duties and powers conferred upon it by law, may in specific cases vary or nullify the established regulations, in harmony with their general purpose and intent, as defined by Section XIII. of the Escanaba Zoning Ordinance.

2. GENERAL RULES

- 2.1 **Meetings to be Public.** All official meetings of the Zoning Board of Appeals shall be open to the public. The journal of proceedings shall be open to public inspection as specified by the Open Meetings Act.
- 2.2 **Quorum.** Four (4) members of the Zoning Board of Appeals shall constitute a quorum and be necessary for the transaction of business. If a quorum is not present, those in attendance will be named and they shall adjourn to a later time.
- 2.3 **Journal of Proceedings.** An account of all proceedings of the Zoning Board of Appeals shall be kept by the City Administrator and shall be entered in a book constituting the official record of the Zoning Board of Appeals.
- 2.4 **Right of Floor.** Any Boardmember desiring to speak shall be recognized by the Chairman and shall confine his or her remarks to one subject under consideration or to be considered.
- 2.5 **City Department Personnel.** The Code Official shall attend all meetings of the Zoning Board of Appeals unless excused. The Code Official may make recommendations to the Zoning Board of Appeals and shall have the right to take

part in all discussions of the Zoning Board of Appeals, but shall have no vote as specified in Section 1. Authority.

- 2.6 **Officers and Employees.** Department heads of the City, when there is pertinent business from their departments on the Zoning Board of Appeals agenda, shall attend such Zoning Board of Appeals meetings upon request of the City Manager.
- 2.7 **Rules of Order.** The rules of Parliamentary Procedure as contained in "Roberts Rules of Order Newly Revised" shall govern the proceedings of the Zoning Board of Appeals in all cases to which they are applicable, unless they are in conflict with these rules, the City Code or Charter, or the laws of the State of Michigan.
- 2.8 **Disqualification of Member.** A member of the Zoning Board of Appeals shall not hear an appeal in which that member has any personal, professional or financial interest.
- 2.9 **Election of Officers.** During the first regular scheduled meeting of the new calendar year the Zoning Board of Appeals shall hold an election of Officers for the positions of Chair and Vice Chair.
- 2.10 **Attendance.** Should the Planning Commission Member fail to attend regular meetings of the Zoning Board three (3) unexcused absences in a calendar year that office may be declared vacant and a new member can be requested from the City Council to fill the position.

3. MEETINGS

- 3.1 **Public Notice of Meetings.** The Code Official shall be responsible for providing the proper notice of all meetings of the Zoning Board of Appeals as specified by the State Open Meetings Act.
- 3.2 **Regular Meetings.** The Zoning Board of Appeals shall meet in a specified location for regular meetings. The regular Zoning Board of Appeals meetings are to be commenced at 5:30 p.m. on the second Tuesday of each month, unless otherwise announced and as specified by the State Open Meetings Act.* The Zoning Board of Appeals shall assume no meeting will be scheduled unless notified by the City Administration. Any Request for Appeal must be submitted to the City Administration at least fourteen (14) days before the second Tuesday of each month.
- 3.3 **Special Meetings.** Special meetings may be called by the City Administration or by two members of the Zoning Board of Appeals. The call for a special meeting shall specify the day, the hour and the location of the special meeting. The City Administration shall give public notice as specified by the State Open Meetings

Act.

- 3.4 **Recessed Meetings.** Any meeting of the Zoning Board of Appeals may be recessed to a later date and time provided that no adjournment shall be for a longer period than until the next scheduled meeting.
- 3.5 **Study Sessions.** The Zoning Board of Appeals may meet informally in Study Sessions (open to the public) at the call of the City Administration or majority of the Zoning Board of Appeals to review forthcoming programs/projects of the City, receive progress reports on current programs or projects or received other similar information from the City Administration, provided that all discussions and conclusions thereon shall be informal.*
- 3.6 **Emergency Meetings.** Emergency meetings shall be called as specified in the State Open Meetings Act without complying with the notice requirements in the event that it is necessary to hold a meeting to deal with a severe and imminent threat to the health, safety or welfare of the public when four (4) of the Zoning Board of Appeals body decide that delay would be detrimental to the efforts to lessen or respond to the threat.
- 3.7 **Postponed Hearing.** When six (6) members of the Zoning Board of Appeals are not present to hear an appeal, either the appellant or the appellant's representative shall have the right to request a postponement of the hearing until a full Zoning Board of Appeals is present. This choice will be solely up to the appellant.
- 3.8 **Zoning Board of Appeals Decision.** A concurring vote of two thirds (2/3) of the members of the Zoning Board of Appeals shall be necessary to reverse any order, requirement, decision, or determination of any administrative official charged with the enforcement of the Zoning Ordinance or any amendments thereto or to decide in favor of the applicant any matter upon which they are required to pass under the ordinance or any amendments to the ordinance. Any person or appellant aggrieved by a final decision of the Zoning Board of Appeals, whether or not a previous party to the appeal, may appeal the decision to the Delta County Circuit Court within 20 days from the date of the decision.

4. **CHAIRMAN AND DUTIES.**

- 4.1 **Chairman.** The Chairman, if present, shall preside as Chairman at all meetings of the Zoning Board of Appeals. In the absence of the Chairman, the Vice Chairman shall preside. In the absence of both the Chairman and the Vice Chairman, the

Zoning Board of Appeals shall elect a Chairman.

- 4.2 **Call to Order.** The meetings of the Zoning Board of Appeals shall be called to order by the Chairman or, in his/her absence, by the Vice Chairman. In the absence of both the Chairman and the Vice Chairman, the meeting shall be called to order by the Code Official for the election of a temporary Chairman.
- 4.3 **Preservation of Order.** The Chairman shall preserve order and decorum, prevent attacks on personalities or the impugning of members' motives, and confine members in debate to the question under discussion.

5. **ORDER OF BUSINESS AND AGENDA**

- 5.1 **Order of Business.** The general rule as to the order of business in regular meetings shall be as follows:
1. Call to Order
 2. Roll Call
 3. Approval and/or Correction to Minutes of Previous Meeting
 4. Unfinished Business
 5. New Business (on the printed agenda)
 6. Announcements
 7. Adjournment
- 5.2 **Agenda.** The order of business of each meeting shall be as contained in the Agenda prepared by the City Administration. Agenda items must be submitted one week prior to the meeting. The Agenda shall be a listing by topics of subjects to be considered by the Zoning Board of Appeals and shall be delivered to members of the Zoning Board of Appeals the Friday prior to the Tuesday Zoning Board of Appeals meeting, and when possible, preceding a special Zoning Board of Appeals meeting to which it pertains.
- 5.3 **Presentation by Members of the Zoning Board of Appeals.** The Agenda shall provide a time when the Chairman or any Boardmember may bring before the Zoning Board of Appeals any concerns or business that he/she feels should be deliberated upon by the Zoning Board of Appeals. These matters need not be specifically listed on the Agenda, but formal action on such matters shall be deferred until a subsequent Zoning Board of Appeals meeting except when

immediate action need be taken upon a majority vote of Boardmembers present.

6. **VOTING**

6.1 **Roll Call Votes.** Roll call votes shall be taken when required by policy/law, at the request of any member of the Zoning Board of Appeals or when the Chairman cannot determine the results of a voice vote.

7. **CITIZENS' RIGHTS**

7.1 **Addressing the Zoning Board of Appeals.** Members of the public desiring to address the Zoning Board of Appeals by oral communication shall first secure the permission of the Chairman. Preference will be given to those persons who have notified the City Administration in advance of the regular Zoning Board of Appeals meeting of their desire to speak in order that their name may be placed on the agenda and they will be recognized by the presiding officer without further action. General public comment shall be restricted to comment on agenda items only with a two (2) minute time restriction.

7.2 **Manner of Addressing the Zoning Board of Appeals.** Each person addressing the Zoning Board of Appeals shall approach the lectern and may give his/her name in an audible tone of voice for the record. All remarks shall be addressed to the Zoning Board of Appeals as a body and not to any member thereof. No person, other than members of the Zoning Board of Appeals and the person having the floor, shall be permitted to enter into any discussion, either directly or through the members of the Zoning Board of Appeals. No questions shall be asked the Boardmembers except through the Chairman.

7.3 **Personal and Slanderous Remarks.** Any person making personal, impertinent or slanderous remarks, or who shall become boisterous, while addressing the Zoning Board of Appeals, may be requested to leave the lectern.

7.4 **Chairman May Appoint Committee or Refer Citizen's Complaints.** The Chairman may appoint a committee of two members of the Zoning Board of Appeals and/or various members of City Administration to hear Citizen's complaints as the same are referred thereto by the Chairman or may refer Citizen's complaints to a Citizen Board, Committee or Commission.

7.5 **Written Communications.** Interested parties, or their authorized representatives, may address the Zoning Board of Appeals by written communication in regard to any matter concerning the City's business or over which the Zoning Board of Appeals has control at any time by direct mail or by addressing the City Administration.

8. **SUSPENSION, AND THE AMENDMENT OF THESE RULES**

- 8.1 **Suspension of These Rules.** Any provision of these rules not governed by the City Charter or City Code may be temporarily suspended by a vote of a majority of the Zoning Board of Appeals. The vote on any such suspension shall be taken by ayes and nays and entered upon the record.
- 8.2 **Amendment of These Rules.** These rules may be amended, or new rules adopted, by a majority vote of all members of the Zoning Board of Appeals.