

ZONING BOARD OF APPEALS
CITY OF LIVONIA

RULES OF PROCEDURE

RULE I - Meetings

1. In accordance with the Open Meetings Act, 1976 PA 267, the dates, times and places of all Regular meetings of the Zoning Board of Appeals, hereinafter referred to as the Board, for the next ensuing calendar year shall be posted within ten (10) days after the first meeting of each calendar year. The meetings are open to the public and any persons attending shall not be required to identify themselves as a condition of attendance at the meeting, but shall identify themselves by name and address if they wish to address the Board.
2. The first meeting of the month shall be considered the Regular meeting and it shall be held on Tuesday at 7:30 P.M. By resolution supported by four (4) members of the Board, the date or the time of the Regular meeting may be changed. If changed, however, a public notice stating the new dates, times and places of the Regular meetings shall be posted within three (3) days after the meeting at which the change is made.
3. Special meetings may be called by the Chairman of the Board or upon written request of four (4) members, provided twenty-four (24) hours' notice has been given to each member before the time set for such hearing, except that the announcement of a Special meeting at any meeting at which all the members are present shall be sufficient notice of such meeting. The notice of any rescheduled Regular meetings or the calling of a special meeting shall be posted at least eighteen (18) hours prior to the date of the scheduled meeting and shall state the date, time and place of the meeting.
4. The Board shall elect annually, at its first meeting in August when a full Board is present, its own Chairman, Vice Chairman and Secretary for the ensuing year. Further, it shall require not less than three-fourths (3/4) of the members to be present at the last meeting in August, if a full Board cannot be present earlier in the month to hold an election. The Board in conformity with the laws, ordinances and regulations relating to Civil Service, shall appoint such assistants or clerks as may be approved by the City Council, and shall prescribe their duties and responsibilities. One such responsibility is that the office secretary to the Board is designated as the person who shall post notices of meetings in the office of the Board and on the bulletin board at the office of the City Clerk.
5. Four (4) members of the Board shall constitute a quorum for conducting its business. The concurring vote of a majority of the members of the Board shall be necessary to reverse any order, requirement, decision or determination of any administrative official, or to decide in favor of the applicant any matter upon which the Board is required to pass by

law, or to effect any variation in the Zoning Ordinance, except that a concurring vote of two-thirds (2/3) of the members of the Board shall be necessary to grant a variance from uses of land. Further, that the only acceptable votes are Aye, Nay or Abstain.

- *6. Every resolution not otherwise provided for shall require a majority vote of the members present at a legally constituted meeting. The Board shall also hear appeals from the Swimming Pool and Fence Ordinances as provided by the Code of Ordinances of the City of Livonia. The procedure for hearing fence appeals is the same as all other appeals. The procedure for filing and hearing swimming pool appeals appears under Rule III - Swimming Pool Appeals.

7. The order of business at Board meetings shall be as follows:
 - a) Roll Call
 - b) Introductions and Procedural Explanations (including recourse to Circuit Court)
 - c) Agenda
 - d) Disposition of Appeals
 - e) Disposition of extension of Appeals
 - f) Discussion of Minutes of previous meeting and action thereon
 - g) Communications
 - h) Report of Committees
 - i) Unfinished Business
 - j) New Business

8. The meetings shall be conducted under Robert's Rules of Order, revised.

RULE II - Appeals

- *1. An appeal to the Board may be taken from any order, directive, requirement, decision or determination of any administrative official or other Board charged with the enforcement of the Zoning Ordinance by any person aggrieved thereby, or by any officer, department, board or bureau of the City, except where such an appeal is prohibited by Ordinance. Such appeal shall be taken within the time provided in Paragraph 7 of this Rule II by filing with the officer or bureau from which the appeal is taken, and with the Board, an application or notice of appeal which shall set forth or be accompanied by the information and data required in Paragraphs 5 and 6 of this Rule II.

- *2. The application or notice of appeal to the Board shall be made in writing, on forms adopted by said Board. Forms for appeals can be secured from the Inspection Department.

- *3. Notices of appeal or applications for any variation or modification of the requirements of the Zoning Ordinance shall be made by the owner of the premises affected. Such notice or application may be made, however, by an attorney or agent upon proper authorization. The Board shall require such authorization in writing from the owner.
4. An original and duplicate of each application or notice of appeal from an order or determination of an administrative official or bureau shall be forwarded to such official or bureau, and such official or bureau shall forthwith transmit to the Board the original of the application or notice of appeal together with all the papers constituting the record upon which the action of appeal was taken.
5. The application or notice of appeal shall set forth or shall be accompanied by the following data and information:
 - a) The principal points upon which the appeal is made.
 - b) The street address, if any, and the cross streets, and the legal description of the property involved, including the subdivision.
 - c) A clear and accurate description and structural material to be used of the proposed work to be done or use to be made of the property involved.
6. The application or notice of appeal shall be accompanied with the following:
 - *a) **Residential or Commercial:** Nine (9) copies of plot plans drawn to scale showing the actual shape and dimensions of the lot; the existing buildings and accessory buildings, lines within which the proposed building is to be erected or altered; the existing and intended use of each building or part of a building; the number of families or housekeeping units the building is designed to accommodate, and such other information with regard to the lot. Show adjacent lots with building locations and address number.
 - *b) **Signs:** Twelve (12) copies of plot plans clearly showing the proposed location of the sign drawn to scale and twelve (12) detailed plans of the proposed sign(s), including a color rendering of the proposed sign(s).

*Also, a photograph, architectural rendering or rendering and plan of the building, property or sign involved. New construction, alteration and additions require a minimum of one set of building plans in addition to the plans which accompany the building permit application.

7. Every appeal shall be delivered to the Secretary of the Board or his/her designee within twenty (20) days from the date of the order, requirement, decision or determination of the officer or bureau from which the appeal is taken, provided that the Board may, in exceptional cases and for good cause, grant additional time in which to perfect an appeal. The date of the order or decision of the officer or bureau shall not be counted, but the date of filing notice of appeal together with Sundays and Holidays, shall be counted.
8. All available pertinent information shall be furnished by the applicant. All consents secured by and copies of all notices given by the applicant shall be filed with the Board.
9. The Board may request of the applicant such additional information and data as is deemed essential to fully advise the Board with reference to any question involved in the appeal. Refusal or failure to comply on the part of the applicant may be grounds for the dismissal of the application by the Board.
10. The Board shall fix a reasonable time for the hearing of the appeal and give notice thereof to all persons entitled to notice under the provisions of ACT 207 of the Public Acts of 1921, as amended (MCLA 125.585 M.S.A. 5.2935), and shall decide the same within a reasonable time, having regard to the nature and exigencies of the case.
11. An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board, after the notice of appeal shall have been filed with him/her, that by reason of facts stated in the certificate, a stay would in his opinion cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board on application, on notice to the officer from whom the appeal is taken and on due cause shown.

RULE III - Swimming Pool Appeals

Procedure for filing an Appeal:

1. The applicant shall obtain appeal forms from the Building Department and be completed in duplicate for submission to the Board.
2. Nine (9) copies of drawings and other information as described in the Ordinance shall be submitted for use by the Board in making its decision.
3. The secretary to the Board shall record the name and address of all property owners and residents adjacent to applicant's property.

- a) Adjacent property owners or residents are defined as owners or residents of property, any part of the boundary of which is common to the applicant's property.
 - b) Notice will be sent to these persons advising them of a public hearing.
4. Applicant shall pay a \$15.00 appeal fee to the City of Livonia at the time the application is filed.

Hearing of the Appeal:

1. The hearing on the appeal will be per the docket as scheduled by the Secretary. However, the Chairman or the Secretary of the Board may schedule early hearings, if in their judgment an unreasonable burden would be placed on the Board or other interested parties.
2. The Board will not consider or grant variances or modifications that would waive the requirement of protective fences, walls or electrical safety.
3. Four (4) members of the Board shall constitute a quorum for the hearing of these cases and a simple majority vote of the Board shall be required to grant or deny the appeal.
4. The decision of the Board shall become final within five (5) calendar days following the hearing and the applicant shall be mailed a copy of the decision.
5. All variances granted shall be for good reason but reasons of hardship are not required to be included as part of the variance. Variances shall not be injurious to the health, welfare, or safety of the applicant, adjacent property owners, or the City of Livonia.

RULE IV - Docket and Calendar

1. Each application or notice of appeal properly filed with the required information and data, shall be numbered serially, recorded and placed upon the calendar as directed by the Secretary, for a hearing as soon as the essential information and data has been furnished and properly assembled.
2. The record book shall be kept posted to date as directed by the Secretary, and shall record the name and address of the applicant, the nature and type of the appeal, the location of premises, date of hearings and all discontinuances, postponements, dates of sending notices and other steps taken, or acts done, and the final disposition of the case.

3. When the applications for appeal are docketed and placed on the calendar, the Secretary shall direct that all inspections, maps, plats, and other required information and data are properly assembled and prepared for the hearing.
4. Notices, by first class mail or by personal service, shall be sent to the parties in interest, the owners and residents of all abutting lots, as well as owners and residents of all land and property within a 300-foot radius, at least five (5) calendar days prior to the date set on the calendar for the hearing.

RULE V - Hearings

1. Appeals will be heard by the Board in the order in which they appear on the calendar except that an appeal may be advanced, postponed or adjourned for hearing by order of the Board upon good cause shown.
2. An applicant may appear in his/her own behalf or may be represented by attorney or agent at the hearings of appeals by the Board. If the applicant fails to appear, the case of the opposition may be heard and the Board may adjourn the hearing, or it may dismiss or deny or grant the appeal.
3. The regular order of procedure of hearings shall be:
 - a) Presentation of official records of the case by the Secretary of the Board.
 - b) City official's presentation of the case
 - c) Applicant's presentation of the case
 - d) Interested property owners' presentation of the case
 - e) Rebuttals in similar order
 - f) Reading of the correspondence
 - g) Disposition of the case
4. A minute book shall be kept as directed by the Secretary in which shall be recorded all resolutions relating to each case acted upon, together with the vote of each member of the Board (those absent being so marked), together with all other actions of the Board. In accordance with the Open Meetings Act, 1976 PA 267, the minutes shall show date, time, place, members present and absent, all decisions made when meetings are open, the purposes for calling closed meetings, and all roll call votes taken. Also, the minutes shall

be open to public inspection and shall be available at the location noted on the posted public notices. Copies of minutes shall be available for the cost of printing and copying the same. All proposed minutes shall be available for public inspection not more than eight (8) working days after the meeting to which they refer. Approved minutes shall be available not more than five (5) working days after their approval.

5. The following rules for addressing this Board at all meeting shall govern such proceedings:
 - a) Members of the public at the meeting shall not speak until they are recognized by the chair.
 - b) Each person receiving permission to address this Board shall identify himself/herself by name and address and, if appropriate, group affiliation;
 - c) A person, other than a Petitioner, addressing this Board on an item on the agenda shall be limited to two minutes, unless the period of time is extended by a majority of this Board present, and shall be recognized to speak prior to this Board's consideration of the item;
 - d) Persons addressing this Board shall make responsible comments and shall refrain from making personal, impertinent, slanderous or profane remarks;
 - e) Any person causing a breach of the peace may be asked to leave the meeting.
6. The comments of any individual Board Member, after the completion of the presentations of the applicant and any opponents, shall not exceed three minutes in duration.
7. Proposed findings of fact supporting a denial of the requested variance shall be presented in each case by the pertinent City official(s).
8. The style of all resolutions granting, denying, or granting in part and denying in part any request for variance shall be as follows: "In appeal number [insert case no.], the requested variance is [granted/denied/granted in part and denied in part] for the following reasons and findings of fact."
9. No correspondence shall be read into the record of the hearing of any case if such correspondence was written by any individual or on behalf of any entity, which spoke, or was represented by an individual who spoke, during the hearing.

RULE VI - Rehearings

- *1. A rehearing of any decision of the Board may be granted when a) new evidence is submitted which could not reasonably have been presented at the meeting at which the

decision was made, provided that such request for rehearing is made prior to the expiration of the five-day period prior to notification of the Board's decision, or b) the duration of a "time use qualified" variance has expired.

2. A rehearing of any decision of the Board may also be granted under the following conditions:
 - a) On request of a member of the Board who desired to change his/her vote on the decision, which request must be made not later than five (5) calendar days succeeding the meeting at which the decision was made. A member can only change his/her vote when on the prevailing side.
 - b) Expiration of a limited variance.
3. If a rehearing is granted, the case shall be put on the calendar for a rehearing under the procedure for a regular hearing. See Rule V.
4. In all cases, except when requested by a member of this Board, the request for a rehearing before this Board shall be set forth in a petition, reciting the reasons for said request and said petition shall be accompanied by such evidence and affidavits relied upon by the petitioning party to justify said request. All such petitions received pursuant to this rule shall be heard at the next regular meeting of this Board or as soon thereafter as the calendar will permit. Said hearing will be held to determine whether or not the petition for said rehearing shall be granted.

RULE VII - Closed Sessions

The following is in accordance with the Open Meetings Act, 1976 PA 267:

1. A 2/3rds roll call vote is required to call a closed session, except for such sessions permitted under Section 3a below. The roll call vote for such a closed session shall be entered in the minutes along with the purpose for going into closed session.
2. A separate set of minutes shall be taken by the secretary to the Board at the closed session and they shall be retained for one (1) year and one (1) day after the approval of the minutes of the regular meeting at which the closed session was authorized. These separate minutes shall not be open to the public and can only be disclosed if required in a civil action as outlined in the Open Meetings Act.
3. A closed session may be held only for the following purposes:

- a) To consider dismissal, discipline, etc. of a public officer, employee, staff member, or agent when such person requests a closed session.
- b) When considering an application for employment or appointment when the candidate so requests, (however, all interviews by the public body shall be open.)
- c) For consideration of information exempt from disclosure by state or federal law.

RULE VIII - Final Disposition of an Appeal

1. The Board may dismiss an appeal for lack of jurisdiction or prosecution, or may reverse, affirm, vary or modify any order, requirement, decision or determination of any administrative officer or bureau charged with the enforcement of the Zoning Ordinance and may enter such decision or order as in its judgment ought to be made in the premises, and to that end shall have all the powers of the officer from whom the appeal is taken. The final decision shall be in writing, and so far as it is practicable, in the form of a resolution of the Board. A member may change his/her vote within five (5) calendar days of the meeting by advising the Secretary of the board, when his/her vote will not reverse the outcome. The decision of the Board shall not become final until the expiration of five (5) calendar days from the date of entry of such order or decision unless the Board shall find the immediate effect of such order is necessary for the preservation of property or personal rights and shall so certify on the record.
2. Within five (5) calendar days after entry of the decision of the Board, a copy of such decision shall be mailed to the applicant. The official decision occurs when the Board minutes are approved. The Board may modify its decision at any time when it seeks to correct an error and when such correction, in fact, diminishes the intrusion of and on the interests of the concerned citizens of the area in question. The Board may notify the citizens of the correction as it seems pertinent.
3. In cases where no serious conditions exist and where apparently there are no objections, the secretary to the Board may notify the applicant verbally of the action of the Board prior to the mailing of the final resolution and decision of the Board.
4. Any applicant may, with the consent of the Board, withdraw his/her application at any time prior to the final action thereon, except that if a motion has been made and is pending, such motion shall have precedence.
5. Any decision of the Board favorable to the applicant shall remain in effect only as long as the conditions upon which the order or decision was based are maintained.

6. Whenever any variance or modification of the strict application of the terms of the Zoning Ordinance is authorized by the order of the Board, a building or other requisite permit shall be obtained from the Bureau of Inspection within six (6) months from the date of such order or decision, and failure to obtain such permit within that time shall thereby invalidate and terminate such authority when so conditioned by the Board. However, an extension request will be allowed under the rules for a hearing as indicated in Rule V.
7. Any person feeling injury from the relief or lack thereof granted, may petition for redress from the Wayne County Circuit Court.

Rule IX - Officers and Duties

1. The Chairman shall preside at all meetings of the Board. In case of the absence of the Chairman or at the request of the Chairman, the Vice Chairman shall preside. In the absence of the Chairman and Vice Chairman, a temporary Chairman shall be elected by the members present.
2. The Chairman, subject to these rules, shall decide all points of order on procedure, unless otherwise directed by a majority of the Board in session at that time.
3. All committees that may be deemed necessary and advisable for the proper conduct of business, shall be appointed by the Chairman, unless otherwise provided for by the Board.
4. The Chairman and Board members shall report at each meeting on all official transactions that do not otherwise come to the attention of the Board.
5. Subject to these rules and the direction of the Board, the Chairman shall direct the arranging of all cases and other matters that come before the Board; the sending out of all notices required by these rules and orders of the Board; the preparation of all decisions of the Board.
6. The Secretary of the Board shall direct the keeping of the minutes of the Board's proceedings; the compiling of the required records; and the maintaining of all necessary records, files and indexes.
 - a) That the Secretary of the Board shall approve the disposal of those cases that have been inactive for a period of five (5) years or more.
7. Any duties of a clerical, administrative or ministerial nature assigned to or imposed upon any officer by these rules may be delegated to any clerk or assistant who may be employed by the Board to perform such duties.

RULE X - Amendments

1. Amendments to these Rules of Procedure may be made at any regular meeting upon the affirmative vote of five (5) members, with one week prior notification to all members.

RULE XI - Records

1. The records pertaining to all appeals to the Board shall be kept in the office of said Board, in such manner as to be available to the public during regular office hours, upon request to an attendant, but shall not be taken from the office except by written permission of the Board.
2. The records of those cases that have been inactive for a period of five (5) years or more will be destroyed and the permanent index card file will reflect the date the case was destroyed.