

## **ST. CLAIR COUNTY ZONING BOARD OF APPEALS RULES AND PROCEDURES**

The St. Clair County Zoning Board of Appeals (hereinafter “Zoning Board of Appeals”) hereby adopts the following Rules and Procedures, pursuant to 40-11-14 of the St. Clair County, Illinois Zoning Code:

### **ARTICLE I General Provisions**

1.1 These Rules and Procedures are supplementary to the provisions of the St. Clair County, Illinois Zoning Code (40-1-1 *et seq.*) (hereinafter “Zoning Code”) as they relate to the rules and procedures of the Zoning Board of Appeals.

1.2 All public meetings/hearings of the Zoning Board of Appeals shall be subject to the Illinois Open Meetings Act (5 ILCS 120/1, *et seq.*).

1.3 Nothing herein shall be construed to give or grant to the Zoning Board of Appeals the power or authority to alter or change the zoning ordinance, including the zoning map, which ultimate authority is reserved to the St. Clair County Board per the Zoning Code.

1.4 The office of the Zoning Board of Appeals shall be located in the Zoning Administrator’s Office/Zoning Department at the St. Clair County Courthouse, #10 Public Square, Belleville, Illinois 62220.

1.5 The duly selected Chairman of the Zoning Board of Appeals (“Chairman”) shall supervise the affairs of the Zoning Board of Appeals. He/she will preside at all meetings/hearings of the Zoning Board of Appeals and shall provide for the oath to be administered to witnesses in cases before the Zoning Board of Appeals.

1.6 The duly selected Vice-Chairman of the Zoning Board of Appeals, in the absence or disability of the Chairman, shall perform all the duties and exercise all powers of the Chairman.

1.7 The Zoning Administrator, or his/her selected representative, shall serve as the Secretary of the Zoning Board of Appeals, and shall record and maintain permanent minutes of the Zoning Board of Appeals proceedings, showing the vote of each member on each question, or in the absence or failure to vote, indicating such fact, and shall also keep a record of its meetings/hearings and other official actions. The Secretary shall receive all applications and matters that the Zoning Board of Appeals is empowered to act upon under the Zoning Code and shall keep all files regarding the same. Further, the Secretary shall carry out all other functions and duties as required under the Zoning Code and that may be assigned to him/her from time to time by the Zoning Board of Appeals.

1.8 Except as otherwise prescribed by these Rules and Procedures, the meetings/hearings of the Zoning Board of Appeals may be conducted in accordance with Robert’s

Rules of Order. If any question arises as to procedure, the ruling of the Chairman shall be final unless reversed by a majority vote of the members of the Zoning Board of Appeals present.

1.9 The St. Clair County State's Attorney or an attorney appointed by the St. Clair County State's Attorney is the legal advisor to the Zoning Board of Appeals.

## **ARTICLE II Meetings and Hearings**

2.1 Regular meetings/hearings of the Zoning Board of Appeals may be cancelled by the Chairman when there are no cases pending.

2.2 Special meetings/hearings may be called by the Chairman at his/her discretion, or upon the request of three (3) or more members of the Zoning Board of Appeals, provided that 48 hours' notice is given to each member and otherwise meets the requirements of the Illinois Open Meetings Act (5 ILCS 120/1, *et seq.*).

2.3 The Chairman may take such actions as are required to maintain an orderly and civil meeting/hearing.

2.4 Any member of the Zoning Board of Appeals who has any meaningful financial or familial interest in a matter before the Zoning Board of Appeals shall not vote thereon and shall remove himself or herself from any involvement during the hearing at which said matter is under consideration.

2.5 Proof of lawful notice of hearing shall be introduced into evidence before the Zoning Board of Appeals.

2.6 St. Clair County shall be a party in every proceeding and need not appear.

2.7 In addition to the Applicant, any person may appear and participate at the hearing.

2.8 Any person participating at the hearing shall identify themselves for the record, either orally or in writing, and indicate if an attorney represents them. Any person participating, other than the "Applicant", shall be referred to in these rules as "Interested Person".

2.9 All persons offering testimony at a public hearing shall testify under oath. An attorney shall be sworn if he or she offers testimony, but not if he or she is questioning witnesses, summarizing testimony of witnesses, or addressing the Zoning Board of Appeals.

2.10 The Chairman may impose reasonable limitations on evidence or testimony presented by persons and parties, such as time limits and barring repetitious, irrelevant, or immaterial testimony. Time limits, if imposed, shall be fair, and equally administered. The Zoning Board of Appeals shall not be bound by strict rules of evidence; however, irrelevant, immaterial,

or unduly repetitious evidence shall not be admissible. The Chairman may impose reasonable conditions on the hearing process based on the following factors:

- i. The complexity of the issue.
- ii. Whether the witness possesses special expertise.
- iii. Whether the testimony reflects a matter of taste or personal opinion or concerns a disputed issue of fact.
- iv. The degree to which the witness's testimony relates to the factors to be considered in approving or denying the proposal.
- v. Such other factors appropriate for the hearing.

2.11 The Chairman shall rule on all questions relating to procedural matters, the admissibility of evidence or the propriety of arguments or statements which may be overruled by a majority of the Board. In so ruling, there need not be strict adherence to the rules of evidence recognized in judicial proceedings.

2.12 The order of presentation of evidence at a public hearing shall generally be as follows, but may be modified at the discretion of the Chairman:

- i. Identification of Applicant and Interested Persons;
- ii. Submittal of Proof of Notice;
- iii. Testimony and other evidence by Applicant;
- iv. Board of Appeals examination of Applicant's witnesses and other evidence;
- v. Cross-examination of Applicant's witnesses and other evidence by Interested Persons;
- vi. Testimony and other evidence by Interested Persons;
- vii. Board of Appeals examination of Interested Persons' witnesses and other evidence;
- viii. Cross-examination by Applicant of Interested Persons' witnesses and other evidence;
- ix. In some cases, re-examination may be allowed;
- x. Report by Zoning Administrator, if any;
- xi. Summary/Closing by Applicant;
- xii. Summary/Closing by Interested Persons; and
- xiii. Rebuttal/Closing by Applicant.

2.13 At the conclusion of an evidentiary portion of the public hearing, the Zoning Board of Appeals, among other actions, may move to deliberate its decision on the evidence presented, or continue the hearing to a date, time, and location certain.

2.14. The Zoning Board of Appeals shall render its decision or advisory report pursuant to and in accordance with the relevant provisions of the Zoning Code.

2.15 A continuance of a matter may be granted at the discretion of the Chairman, or for good cause shown, in any case and to an Applicant as follows:

- a. *New Cases*: For cases that are appearing for the first time on the agenda, continuances may be granted based on exceptional circumstances. No additional notice of the continued date shall be required.
- b. *Continued Cases*: All cases which have previously appeared on the agenda of the Zoning Board of Appeals constitute continued cases unless otherwise stated. Requests for further continuance will be considered upon application therefore by the Applicant or by the Applicant's representative at the time the case is called, and upon showing:
  - i. That the Applicant will be unable to proceed with Applicant's evidence at this hearing due to no fault of the Applicant and proceeding with the hearing will unduly prejudice the Applicant.

2.16 In the event an Applicant fails to appear when Applicant's application is set for hearing:

- a. The Chairman may entertain a motion from the Board to dismiss the case for want of prosecution. In the absence of a motion by the Board, the Chairman shall rule, or he/she may continue the matter at his/her discretion.
- b. In cases which are dismissed for want of prosecution, the Applicant will be furnished written notice by the Zoning Administrator.
- c. The Applicant will have seven (7) days from the date of notice of dismissal to apply for reinstatement of the case. In such cases, the Applicant must file a written request with the Zoning Administrator for reinstatement. Reinstatement shall be at the discretion of the Chairman for good cause shown, and if reinstated, the Applicant will pay any and all additional fees, including but not limited to additional publication fees.

2.17 For the Public Comment (not public testimony on a specific application) portion of any Zoning Board of Appeals meeting, the following rules shall apply:

- i. Speakers during the Public Comment portion of any Zoning Board of Appeals meeting are limited to three (3) minutes per speaker.
- ii. The total time for the Public Comment portion of any Zoning Board of Appeals meeting shall not exceed thirty (30) minutes for all public comment.
- iii. Each speaker during the Public Comment period shall be given one (1) opportunity to speak and provide public comment.
- iv. Comments made shall be germane to topics or issues considered by the Zoning Board of Appeals.
- v. Rules of civility and decorum shall be strictly enforced, thus, no public comments that are disruptive, vulgar, harassing, irrelevant or repetitious in nature will be permitted. Persons who breach the rules of civility and decorum may be requested to leave the meeting.

**ARTICLE III**  
**Remote Attendance**

3.1 *Policy Statement.* The Illinois Open Meetings Act, 5 ILCS 120/1 *et seq.* (the “Act”), requires that the action of public bodies be taken openly and that their deliberations be conducted openly, except for certain limited circumstances that permit closed meetings. Section 7 of the Act provides that if a quorum of members of a public body is physically present, the public body may allow a member of the body to attend the meeting by means other than physical presence subject to certain requirements and restrictions and to the extent allowed by rules adopted by the public body. *See*, 5 ILCS 120/7. This Article is intended to adopt certain rules and procedures for attendance at meetings/hearings by video or audio conference by members of the Zoning Board of Appeals consistent with Section 7 of the Act. Therefore, it is the policy of the Zoning Board of Appeals that the presence of its members at all public meetings/hearings is highly desirable, however, the provisions for remote attendance at meetings/hearings as set forth in this Article are intended to provide for the public’s good, not necessarily for the convenience or ease of the members of the Zoning Board of Appeals. As such, remote attendance should be used sparingly and in strict conformance with the provisions described herein.

3.2 *Definitions.* As used in this Article, the following terms shall have the meanings indicated:

ELECTRONIC ATTENDANCE — The attendance at a meeting or hearing of the St. Clair County Zoning Board of Appeals by a member of the St. Clair County Zoning Board of Appeals who is not physically present at the meeting or hearing but attends by either video or audio conference or other electronic means (such as internet connection).

3.3 *Qualifications for electronic attendance.* A member of the Zoning Board of Appeals is qualified to attend a meeting/hearing of the Zoning Board of Appeals electronically only if the member is physically prevented from attending the meeting/hearing by:

- a. Personal illness or disability;
- b. Employment purposes or the business of the public body; or
- c. A family or other emergency;

and,

the member has physically attended a majority of the previous twelve (12) Zoning Board of Appeals meetings/hearings prior to his/her request for remote attendance.

3.4 *Procedures for authorizing electronic attendance.* The following procedures are required before a member of the Zoning Board of Appeals is authorized to attend electronically a meeting/hearing of the Zoning Board of Appeals:

- a. *Notice to the Secretary/Zoning Administrator.* The member must notify the Zoning Board of Appeals Secretary/Zoning Administrator in writing (including but not limited to e-mail or facsimile) at least twenty-four (24) hours prior to the meeting/hearing which the member desires to attend electronically, unless advance notice is impractical. The notice shall identify the reason the member cannot be physically present at the meeting/hearing in accordance with §3.3 of this Article. If the member is unable to give the required written notice prior to the meeting/hearing, the member shall notify the Secretary/Zoning Administrator by other means prior to the meeting/hearing and shall submit the required written notice as soon as practicable following the meeting/hearing.
- b. *Determination of authorization of electronic attendance.* Upon receipt of notice in accordance with §3.4(a), the Secretary/Zoning Administrator shall promptly forward the notice to the Chairman or presiding officer of the Zoning Board of Appeals. After establishing that a quorum of the Zoning Board of Appeals is physically present at the meeting/hearing which a member has requested to attend electronically, the Chairman or presiding officer shall state that (1) a notice was received by a member of the Zoning Board of Appeals in accordance with this Article, and (2) the member will be deemed authorized to attend the meeting/hearing electronically unless a motion objecting to the member's electronic attendance is made, seconded, and approved by 2/3 of the members of the Zoning Board of Appeals physically present at the meeting/hearing. If no such motion is made and seconded or if any such motion fails to achieve the required vote by the members of the Zoning Board of Appeals physically present at the meeting/hearing, then the request by the member to attend the meeting/hearing electronically shall be deemed approved by the Zoning Board of Appeals and the Chairman or presiding officer shall declare the requesting member present. After such declaration by the Chairman or presiding officer, the question of a member's electronic attendance may not be reconsidered.

3.5 *Special rules for meetings/hearings involving electronic attendance.* A meeting/hearing of the Zoning Board of Appeals at which any member has been authorized to attend electronically in accordance with §3.4 of this Article must be conducted in accordance with the following special rules, in addition to any other applicable rules and procedures of the Zoning Board of Appeals:

- a. *Roll call and quorum.* A quorum of the Zoning Board of Appeals must be physically present at the meeting/hearing. Following the call of the roll, and at the conclusion of the procedures set forth in §3.4(b) of this Article, the Chairman or presiding officer shall identify each member who is attending the meeting/hearing electronically.
- b. *Identification and recognition of electronic attendees.* Any member attending electronically must identify himself or herself each time the member wishes to speak and must be recognized by the Chairman or presiding officer prior to addressing matters before the Zoning Board of Appeals.

- c. *Access to meeting/hearing.* The speech of a member attending electronically shall be amplified in such a manner that it shall be generally audible to members of the Zoning Board of Appeals and the public who are physically present at the meeting/hearing. Also, any video image of a member attending electronically shall be projected in such a manner that the member's video image shall be generally visible and audible to members of the Zoning Board of Appeals and the public who are physically present at the meeting/hearing. In addition, the votes of any member of the Zoning Board of Appeals attending electronically shall be generally audible at the location where such meeting/hearing is being held and expressly acknowledged by the Chairman or presiding officer. When a member attends a closed meeting electronically, the member's speech shall be generally audible to all members of the Zoning Board of Appeals who are physically present at the meeting, and the audio recording of the meeting required by the Open Meetings Act shall incorporate the speech of the member electronically attending the closed meeting.
- d. *Minutes.* The minutes of each meeting/hearing of the Zoning Board of Appeals shall identify which of the members of the Zoning Board of Appeals were physically present and, if applicable, which members of the Zoning Board of Appeals attended electronically. The minutes shall also reflect the reason for a member's attendance electronically (as described in §3.3 of this Article), the fact that there was no valid objection to such attendance pursuant to this Article, and the electronic means by which the member attending the meeting/hearing.

3.6 *Effect of electronic attendance.* A member attending a meeting/hearing of the Zoning Board of Appeals electronically shall be considered present at the meeting/hearing and entitled to vote on any matter before the Zoning Board of Appeals as if the member were physically present at the meeting/hearing, provided that the member's attendance at the meeting/hearing electronically complies with the terms of this Article.

3.7 *Emergency and disaster situations.* In the event of a bona fide disaster, as defined in the Illinois Emergency Management Agency Act (20 ILCS 3305/1 *et seq.*) (IEMAA), these remote attendance rules shall not apply to restrict the conduct of public business by the Zoning Board of Appeals, provided such public business is conducted in accordance with Subsection 10(j) of the IEMAA.

#### **ARTICLE IV Special Provisions**

4.1 In the event of a bona fide disaster, as defined in the Illinois Emergency Management Agency Act (20 ILCS 3305/1 *et seq.*), or if a local state of emergency or disaster is declared by the St. Clair County Board Chairman or other St. Clair County agency the Chairman of the Zoning Board of Appeals may temporarily impose, at his/her sole discretion, additional reasonable conditions, rules or procedures on meetings/hearings to protect the health and safety of the members of the Zoning Board of Appeals, staff, applicants, and members of the public attending any Zoning Board of Appeals meeting/hearing. Such additional reasonable conditions,

rules or procedures may temporarily restrict, suspend, or limit any of the Rules and Procedures set forth in Articles I, II, and III herein, when deemed reasonably necessary by the Chairman in the interest of health and safety. Any such additional health and safety conditions, rules or procedures imposed by the Chairman will be published promptly by the Zoning Administrator on St. Clair County's website and posted in an appropriate place(s) in the St. Clair County Courthouse.

- 4.1.1 Any such additional reasonable conditions, rules or procedures imposed by the Chairman pursuant to Section 4.1 are not considered permanent amendments to these Rules and Procedures, and thus, do not require a vote of a majority of the Zoning Board of Appeals. Any additional reasonable condition, rule or procedure imposed under Section 4.1 is temporary, and cannot be effective longer than three (3) months from its/their date of imposition by the Chairman, unless ratified and extended for such longer period of time at a duly noticed public meeting of the Zoning Board of Appeals by a majority of the members present.

#### **ARTICLE V Amendments**

5.1 These Rules and Procedures of the St. Clair County Zoning Board of Appeals may be amended by a majority vote of the members of the Zoning Board of Appeals present at any duly noticed public meeting of the Zoning Board of Appeals.

5.2 The proposed amendment must be presented in writing at a regular or special meeting preceding the meeting at which the vote is taken.

THE FOREGOING RULES AND PROCEDURES ARE HEREBY ADOPTED BY THE ZONING BOARD OF APPEALS OF ST. CLAIR COUNTY, ILLINOIS ON THIS 28<sup>th</sup> DAY OF MAY 2020. ANY AND ALL PRIOR ADOPTED RULES AND PROCEDURES IN CONFLICT HERewith ARE HEREBY REPEALED.

  
Scott Penny, Chairman