

**RULES OF PROCEDURE
THE BOARD OF ZONING APPEALS
CITY OF HARRISONBURG, VIRGINIA
(Proposed Procedures)**

Adopted: [insert date]

ARTICLE I. AUTHORITY & SCOPE

1. These Rules of Procedure are intended to be consistent with the Code of Virginia, the City of Harrisonburg Zoning Ordinance, and other applicable law. In the event of a conflict, applicable law and the Zoning Ordinance control.
2. These rules govern Board of Zoning Appeals and its organization, meeting conduct, public hearings, decision documentation, and related administrative processes.

ARTICLE II. OFFICERS

1. The Board of Zoning Appeals (the “Board”) shall hold its annual meeting to organize and elect a Chair and Vice-Chair and to review the prior year’s annual report in each month of March, or during the next scheduled meeting of the Board thereafter.
2. A Secretary for the Board shall be appointed by the city manager, or designated agent.
3. Nomination of officers shall be made from the floor at each annual meeting. Election of officers shall follow immediately. A candidate receiving a majority vote of the entire membership shall be declared elected.
4. Terms of office shall be for one year or until a successor takes office.
5. Vacancies shall be filled for an unexpired term by a majority vote of the Board.

ARTICLE III. DUTIES OF OFFICERS

1. The Chair shall preside at all meetings and hearings of the Board and shall decide all points of order or procedure. The Chair may administer oaths and compel the attendance of witnesses. In the absence of the Chair, the Vice-Chair, if present, shall preside at all meetings and hearings of the Board in place of the Chair. If the Chair and Vice-Chair are absent from any meeting, a present member shall be chosen to act as Chair.
2. The Secretary may be either a member of the Board or another person, including the Zoning Administrator or a suitable designee. The duties of the Secretary shall include keeping the minutes of the BZA’s meetings, keeping and maintaining custody of the records of the Board, drafting and signing all correspondence necessary for the execution of the duties of the Board, and such other duties as these rules may assign.

ARTICLE IV. MEETINGS

1. Regular meetings of the Board shall be held on the first Monday of each month, as needed, at 4:00 p.m., unless that day falls on a legal holiday, in which case the meeting shall be moved to the following Monday. The Board may establish a different day, time, or place to conduct any regular meeting by passing a resolution to that effect. Staff shall make site visits available for the Board members on or before the day of the regular meeting.
2. If the Chair, or the Vice-Chair if the Chair is unable to act, finds and declares that weather or other conditions are such that it is hazardous for Board members to attend a regular meeting, the meeting shall be continued to the next regular meeting date. This finding shall be communicated to the members of the Board and to the press as promptly as practicable.
3. Without further notice, a regular meeting may be adjourned from day to day or from time to time or from place to place, not beyond the time fixed for the next regular meeting, until the business of the Board is complete.
4. Notice of any public hearing before the Board will be given in compliance with Section 15.2-2204 of the Code of Virginia and the Zoning Ordinance of the City of Harrisonburg.
5. A special meeting may be held when called by the Chair or requested by two or more members of the Board. The call or request shall be made to the Secretary and shall specify the matters to be considered at the meeting. Upon receipt of a call or request, the Secretary shall immediately notify each member of the Board. Whenever Virginia law requires public notice of a special meeting of the Board, the Secretary shall provide such notice.
6. A quorum of the Board shall consist of three members of the five-member Board. If a member is required to recuse themselves from a case, the Board may proceed so long as a quorum remains present.
7. Hearings shall be open to the public and shall be held by the Board in City Council Chambers at 409 South Main Street, Harrisonburg, Virginia, or in such other place or format as the Board may deem necessary.
8. The order of business at all regular meetings of the Board shall be as follows:
 - a. Call to order
 - b. Roll Call
 - c. Determination of a quorum
 - d. Consent of agenda
 - e. Election of Officers (when required under these procedures)
 - f. Approval of minutes of previous meeting(s)
 - g. Public hearing and consideration of cases on the agenda
 - h. Other business
 - i. New business

- ii. Old business
 - iii. Public comment
 - i. Adjournment
9. General public comment under “Other business” is not a public hearing and shall not substitute for any public hearing required by law. The Chair may establish reasonable rules for public comment, including time limits and speaker procedures.
 10. The Board may continue any case or meeting to a date, time, and place certain. When a continuance is announced on the record, no further notice shall be required except as otherwise required by law.
 11. Any Board member who is unable to attend a regular or special meeting in person due to (i) an emergency or a personal matter, or (ii) a temporary or permanent disability or other medical condition, may participate in the meeting through electronic communication from a remote location that may not be open to the public, subject to the following:
 - a. A quorum of the Board is physically assembled at the central meeting location.
 - b. The member notifies the Chair and Secretary on or before the day of the meeting that he or she is unable to attend (i) due to an emergency or personal matter identified with specificity, or (ii) due to a temporary or permanent disability or other medical condition that prevents the member’s physical appearance. A member shall participate in a remote meeting due to an emergency or personal matter at no more than two meetings in each calendar year.
 - c. The Board records in its minutes the (i) specific nature of the emergency or personal matter or the fact of the disability or medical condition, and (ii) the remote location from which the member is participating.
 - d. The Board arranges for the voice of the absent member to be heard by all persons in attendance at the central meeting location.
 12. The Board by motion shall vote to approve or disapprove the member’s electronic participation. If the absent member’s remote participation is disapproved because such participation would violate the above, such disapproval shall be recorded in the minutes.

ARTICLE V. PROCEDURE FOR PUBLIC HEARING CASES

1. Cases shall be heard in the order in which they appear on the agenda, unless the Board determines that a change in order would improve the efficiency of the meeting.
2. Appeals or applications must be submitted on the proper forms. The forms must be submitted to the Zoning Administrator or their designee on the first Monday of every month by end of the business day, unless that day is a holiday, in which case the application shall be submitted the following business day. The Secretary shall transmit

- the appeal or application to the Board, along with any relevant records of the action upon which the appeal is based, and a report of the City.
3. If the applicant or appellant wishes the Board to consider additional records, documents, or other information, such records, documents, or other information must be submitted to the Secretary at least 10 business days in advance of the public hearing. Records, documents, or other written information submitted less than 10 business days prior to the public hearing, or at the public hearing itself, shall be considered at that meeting only by leave of the Board.
 4. If the applicant or appellant fails to appear at the hearing or send a representative, the Board may defer the public hearing or may hold the public hearing. If the Board holds the public hearing, the Board may defer the decision or may render its decision in the absence of the applicant or appellant.
 5. At the hearing, the order shall be as follows:
 - a. The Chair will announce the case and open the public hearing.
 - b. Presentations by the parties:
 - i. City staff will present its case.
 - ii. The applicant or appellant will present its case.
 - c. Public comments:
 - i. Statements of others in favor.
 - ii. Statements of others opposed.
 - d. Rebuttal:
 - i. Staff may respond to any comments raised by the public.
 - ii. The applicant or appellant may respond to any comments raised by the public.
 - e. The Chair will close the public hearing.
 - f. Motion, discussion, and decision by the Board.
 6. The Board shall offer an equal amount of time to the applicant or appellant and the City. The Chair shall prescribe a reasonable time limit for each side to present its case, and shall separately prescribe a reasonable time limit for each member of the public who provides comment.
 7. During either party's presentation or rebuttal, or during its discussion, any member of the Board may ask questions.
 8. The name and address of each person speaking shall be recorded in the minutes. Speakers shall also state if they are speaking for themselves or on behalf of an organization, and disclose if they are representing the applicant.
 9. At the time for considering the case, the Chair may call for a motion, or if the Board decides that it is not sufficiently informed, it may continue the case and may request further information.
 10. The final disposition of any appeal or application shall be in the form of a motion sustaining, reversing, varying or modifying the order, requirement or determination

appealed. The motion shall set forth what variations or modifications are permitted and what conditions, if any, shall be complied with. Any such conditions shall be related to the case, reasonable, and enforceable and clearly stated. Said motion shall refer specifically to the applicable provision in the City Code and shall set forth facts and findings in the case on which the decision is based, which shall be consistent with the requirements of law. A concurring vote of a majority of the members of the board shall be necessary for a successful motion.

11. If a motion fails to receive a second, the motion has died, and the application or appeal will be carried over for another motion until a final disposition is reached. The vote of each member present on each motion shall be recorded with the motion.
12. In any case in which the Board has denied an application, no substantially similar application shall be considered by the Board within one year from the date of such denial.

ARTICLE VI. REHEARING

1. No motion for a rehearing shall be entertained unless new evidence is submitted, which could not reasonably have been presented at the original hearing. In all cases, the request for rehearing shall be in writing, reciting the reasons for the request, and shall be accompanied by the necessary information, including a recitation of all evidence, which could not reasonably have been presented at the original hearing.
2. No rehearing of any decision by the Board shall be had except on motion by a member of the Board who previously voted on the decision, which shall be made not later than the first regular meeting succeeding the meeting at which the motion was acted on; such motion shall be to reconsider the vote, and shall be carried by not less than three affirmative votes.
3. If a rehearing is granted, the case shall be put on the next meeting's agenda for a rehearing. The same procedure as to notices shall be followed as in the original application.

ARTICLE VII. ADVICE

No informal request to the Board for advice or opinions will be officially considered.

ARTICLE VIII. SUSPENSION OF RULES

These rules may be suspended in whole or in part, upon the unanimous vote of the members of the Board present.

ARTICLE IX. AMENDMENTS

These rules may be amended or modified by the affirmative vote of a majority of the Board.

ARTICLE X. DISMISSAL OF CASES

Any application, appeal, motion, or request for rehearing may be dismissed for failure of the applicant or appellant to comply with these Rules of Procedure, applicable filing requirements, or other lawful requirements of the Board. Such dismissal may include, without limitation, failure to appear, failure to provide required information, or failure to proceed in an orderly manner. Unless otherwise stated by the Board, a dismissal under this section shall be without prejudice. The Board may, for good cause shown, continue rather than dismiss a matter.

ARTICLE XI. EX PARTE COMMUNICATION

Board members shall avoid discussing the facts or law relative to a particular case outside of a public meeting. This shall include discussions with staff, the applicant, or landowner or their agent or attorney. If any ex parte discussion of facts or law in fact occurs, the party engaging in such communication shall inform the other party as soon as practicable and advise the other party of the substance of such communication.