



Roll Call Number

Agenda Item Number

53A

Date April 23, 2018

RESCINDING PRIOR ACTION AND APPROVING AMENDMENTS TO THE BUILDING AND FIRE CODE BOARD OF APPEALS PROCEDURAL & ADMINISTRATIVE RULES

WHEREAS, at its February 8, 2018 meeting, the Building and Fire Code Board of Appeals passed a motion to amend its rules and regulations by amending sections relating to time and place of meetings, agenda and minutes, appellant and citizen participation, actions and election of officers, and by deleting matters not on the agenda, and by renumbering various sections; and

WHEREAS, these amendments will take effect upon approval by the City Council per Municipal Code Section 2-1055(a); and

WHEREAS, the proposed amendments are incorporated into the Building and Fire Code Board of Appeals Procedural & Administrative Rules on file with the City Clerk's Office.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Des Moines, Iowa that Roll Call No. 18-0567 of April 9, 2018 is hereby rescinded.

BE IT FURTHER RESOLVED that the amendments to the Building and Fire Code Board of Appeals Procedural & Administrative Rules passed by the Commission at its February 8, 2018 meeting are approved and the Building and Fire Code Board of Appeals Procedural & Administrative Rules, as amended, shall be effective upon passage of this resolution.

Moved by _____ to adopt.

APPROVED AS TO FORM:

Jessica D. Spoden
Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
COLEMAN				
GATTO				
GRAY				
MANDELBAUM				
WESTERGAARD				
TOTAL				

MOTION CARRIED

APPROVED

Mayor

CERTIFICATE

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

City Clerk

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BUILDING AND FIRE CODE BOARD OF APPEALS PROCEDURAL & ADMINISTRATIVE RULES

A. General Provisions

1. ~~1.~~ 4.—Scope of Rules. These rules shall govern the conduct of the Building and Fire Code Board of Appeals (hereinafter known as the Board) and shall be interpreted to ensure fair and open deliberations and decision-making.
2. ~~2.~~ 2.—Matters Not Covered. Any matter of order or procedure not covered by these rules shall be referred to the Chairperson who shall decide the matter with the assistance and advice of the City's Legal Department representative in conformity with the purpose of these rules and in a fair and expeditious manner. The decision of the Chairperson may be reversed by a majority vote.
- ~~2.3.~~ 3.—Interpretation. These rules are intended to supplement and shall be interpreted to conform to the statutes of the State of Iowa and ordinances of the City of Des Moines.

B. Time and Place of Meeting

1. ~~4.~~ 4.—Regular Meetings. All meetings shall be subject to the Iowa Open Meetings Law and held in a place accessible to the general public and handicapped residents. Regular meetings shall be held on the second Thursday of each month at 4:00~~3:30~~ p.m. The Board shall adopt a schedule of meetings for the following year at its first meeting in December.
2. ~~5.~~ 5.—Special Meetings. Special meetings may be called by the Permit and Development Administrator, Chairperson or by a majority of the members. The call for the special meeting shall specify the day, hour and subject of the meeting. The agenda shall be filed with the City Clerk and posted.
- ~~5.3.~~ 3.—Quorum. A ~~simple~~ majority of the appointed members at the time of the meeting shall constitute a quorum necessary for board action, but quorum shall not be less than five (5) members. A member who is present but not voting due to a conflict of interest shall count towards a quorum. When a quorum is not attained, the meeting may proceed informally with Board recommendations subject to fact that quorum was not reached.

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C. Agenda and Minutes

- 7.1. Preparation of Data. Prior to each meeting, staff shall publish an agenda that contains all items the Board anticipates discussing at the meeting. The agenda shall be kept on file. The agenda shall be filed with the City Clerk and posted.
- 8.2. Action to Defer, Continue or Not Act. A member shall not withdraw any item prior to the start of the meeting. A member may move to defer action, continue or not act on an item at the meeting.
- 9.3. Citizen Action Requests. Any citizen may request the right to have an item placed on the agenda, including a request to speak, by filing such request in writing with the staff prior to 5 p.m. of the 10th ~~business-~~calendar day preceding the meeting.
- 10.4. Scheduled Agenda Items. Staff will place items requesting review and recommendation to the Council on the agenda, subject to the submission of complete and adequate materials by the Applicant prior to 5:00 p.m. of the 10th ~~business-~~calendar day preceding the meeting.
- 11.5. Minutes. Minutes shall be taken at each meeting by staff. The written minutes shall be reviewed, corrected (if required) and approved at the following meeting. Approved minutes shall be kept on file. The minutes shall provide a record of the action taken on each agenda item, provide a listing of members and staff in attendance, any persons speaking at the meeting, and indicate any written materials received and filed for the record at the meeting.
12. ~~Matters Not on the Agenda. The Board may, at its discretion, allow members, staff or citizens to raise a matter not on the agenda and address the Board at the end of the regular agenda.~~
- 13.6. Presiding Officer. The Board shall each elect a Chairperson and Vice-Chairperson to conduct its meetings and correspond on behalf of the Board. The Chairperson, or in the Chairperson's absence or incapacity, the Vice-Chairperson, shall be the presiding officer and call the meeting to order. In the absence of the Chairperson or Vice-Chairperson, the members in attendance shall select a temporary presiding officer.
- 14.7. Control of Discussion. The presiding officer shall direct discussion of each agenda item to assure full participation in accordance with these rules. Unless otherwise provided, each agenda item shall be considered in the numerical order assigned by the staff. The presiding officer for purposes of discussion and consideration shall separately announce each item. An agenda item may be considered out of order with the consent of a majority of the members.
- 15.8. Discussion. After staff and interested parties (e.g. the general contractor) make the project presentation to the Board, the presiding officer shall request comments first from the public, second from staff, and then from Board members.
- 16.9. Comments. A member shall speak only after being recognized by the presiding officer. The member shall limit remarks to that purpose and not be interrupted except by the presiding officer to enforce these rules. Each member shall limit his or her remarks to a

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reasonable length. That length may be established by members at any meeting.

~~17.10.~~ Presiding Officer's Right to Speak Last. The presiding officer has the right to close debate and to sum up the discussion.

~~18.11.~~ Closing Debate. A call for a vote to close discussion shall not close discussion if any member of the Board still wishes to be heard or the presiding officer determines the continued participation of the citizens will be helpful to the Board.

D. Appellant and Citizen Participation

~~19.1.~~ Appellant Submission Standards. Appellant is to provide the Administrator with 20 separate copies of all materials to be presented to the board members at the time of application, along with a formal letter requesting and outlining the matter of appeal. The Appellant is encouraged to provide an electronic version to facilitate early dissemination.

~~20.2.~~ Right to Address. Persons other than members shall be permitted to address the Board at the appropriate time. Comments must be directed to the specific agenda item under consideration. The presiding officer shall rule on the germaneness of citizen comments. Persons making personal, impertinent, or slanderous remarks shall be barred by the presiding officer from further comment before the Board LAB during the meeting.

~~21.3.~~ Manner of Addressing the Board. A person desiring to address the Board shall state his or her name, address, and group affiliation (if any).

~~22.4.~~ Time Limits. Total citizen input on any subject under consideration can be limited to a fixed duration by the presiding officer. A majority vote may extend or limit the time duration established by the presiding officer.

E. Action

1. ~~23.~~ Motion Required. All action requiring a vote shall be moved and seconded by voting members.

2. ~~24.~~ Motion to Reconsider. A motion to reconsider must be made by a member who was on the prevailing side in the original action or by a member absent at the time of the original action.

3. ~~25.~~ Motion to Amend. No other motion shall be made while a motion is pending, except an auxiliary motion to amend, which is made to assist or clarify the Board in disposing of the motion and shall take precedence over the motion on the floor.

4. ~~26.~~ Action on Motion. A motion is approved if a majority of voting members vote aye. A motion is defeated if a majority of voting members vote nay. If the vote is tied (an equal number of ayes and nays), a motion is defeated.

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5. 27. Call for Vote. At the conclusion of debate, the presiding official shall call for a vote on the motion. All voting members shall vote (aye, nay, or abstain). The action on the motion will be recorded by each member's vote as part of the minutes.
6. 28. Separate Consideration. Except as otherwise required by these rules, each agenda item shall be voted upon separately and each separate vote shall be recorded in the minutes.
7. 29. Motions. At any appropriate place on the Agenda, any member may move to act upon any matter that is germane to the matter under consideration.
8. 30. Transmittal to City Council. Staff will transmit the recommendation of the Board for each item, as needed, to the City Council, in a complete and appropriate format, i.e. roll call, blue letter, etc.

F. Election of Officers

1. 31. Nominations. Nominations for Chairperson and Vice-Chairperson shall be made by a ~~nomination committee composed of three members selected by the Chairperson at the first meeting in December. Nominations will also be accepted from other members at the time of the election at the first meeting of the year prior to the election of officers.~~
2. 32. Election. The election of Chairperson and Vice-Chairperson shall be the first order of business at the first meeting of the year.
3. 33. Terms. Terms for the Chairperson and Vice-Chairperson are for one calendar year. The Chairperson and Vice-Chairperson shall hold over as the officers until their successors are elected.

G. Miscellaneous

1. 34. Staff. Staff to the Board shall be as designated by the Permit and Development Administrator.
- 34.2. Attendance. In accordance with Chapter 2-1050 of the City Code, the number of absences by any member shall not exceed 25% of the number of regularly scheduled meetings in a calendar year, provided if 25% is a number less than four meetings, no member shall miss more than four of the regularly scheduled meetings in a calendar year without regard to the reasons for the absences. The cancellation of a regularly scheduled meeting shall not affect the number of allowed absences. Staff shall transmit to the City Council a written report containing the name of each member who has not met the attendance requirements within two weeks of the meeting at which a member fails to meet the attendance requirements. Failure to meet the attendance requirements is grounds for removal of a member by the City Council. The first and each subsequent failure to meet the attendance requirements of this section shall be reported to the City Council. The City Council shall act

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upon each report received to either retain or remove any member of an administrative or advisory board who has not met the attendance requirements of this section. Attendance will be taken at each meeting and recorded as part of the minutes. Three unexcused absences will be reported to the Office of the Mayor.

35.3. Correspondence, Proposals, Etc. Staff to the Board shall receive and file correspondence, design review proposals, and other communications on behalf of the Board. Staff shall transmit these materials to the Board as part of its agenda.

Adopted by the Building and Fire Code Board of Appeals: ~~January 12, 2012~~ February 8, 2018