



Roll Call Number

Agenda Item Number

26

Date May 21, 2018

APPROVING THE HOUSING APPEALS BOARD RULES OF PROCEDURE

WHEREAS, at its April 11, 2018 meeting, the Housing Appeals Board passed a motion to adopt its rules of procedure relating to time and place of meetings, agenda and minutes, appellant and citizen participation, actions and election of officers, hearings, and disposition of agenda items; and

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

WHEREAS, the proposed Rules of Procedure are 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 the Housing Appeals Board Rules of Procedure passed by the Board at its April 11, 2018 meeting are approved and 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				

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.

MOTION CARRIED APPROVED

Mayor

City Clerk

RULES OF PROCEDURE
HOUSING APPEALS BOARD

Article I – Meetings

1. Regular meetings of the Housing Appeals Board (Board) shall be held at 5:30 p.m. on the second Wednesday of each month, except in the month of August if there is a conflict with the State Fair, unless otherwise scheduled by the Board.
2. Special meetings may be called by the Chair, or at the request of three members. Notice of a special meeting shall be mailed to each member at least three (3) days before the time set, or personally delivered to the residence of each member least twenty-four (24) hours before the time set. However, the announcement of a special meeting at any meeting at which all members are present shall be sufficient notice of such meeting.

Article II – Cases before the Board

1. The Board shall hear those appeals, variances, or staff referrals for failure to comply with a notice of violation for consideration of a fine and request for legal action over which it is granted jurisdiction by Chapter 60 of the Municipal Code of the City of Des Moines, Iowa. All appeals or variances shall be initiated by filing of an application with the Neighborhood Inspection Zoning Division of the Community Development Department (Division).
2. Every appeal from an order, decision or determination of the Neighborhood Inspection Zoning Administrator (Administrator) shall be filed by the applicant to whom the order, decision or determination was directed within ten (10) days for the date of such order, decision, or determination. Every appeal from an order, decision, or determination of the Administrator shall be filed by any other person directly affected within ten (10) days of actual notice to such person of such order, decision, or determination.
3. Any appeal or application shall be considered as having been taken, when the written application for such appeal has been properly filed by the appellant or applicant with the Division. Any communication purporting to be such an appeal or application shall not be considered as having been properly taken until it is made as set forth above with the payment of required fees.
4. All information required by code to be set forth in the application shall be furnished by the applicant or appellant at the time the appeal is filed.
5. The Division shall reject any appeals or applications not made in writing with the required supporting documentation and/or without payment of fees.

Article III – The Agenda

1. Each appeal or application for variance with the required documentation attached, or staff referral, shall be given a case number, be docketed and placed upon the agenda of the Board by the Division.
2. The Division shall notify the applicant, appellant, owner or authorized management agent, of the hearing by depositing a notice of hearing in the United States regular mail and/or by email.
3. Appeals, referrals, or applications for variance shall be heard in the order in which they appear on the agenda, except that an appeal, referral or application for variance, may be advanced, deferred, or continued for hearing by order of the Board upon good cause shown. Where all appeals,

referrals, or applications for variance cannot be disposed of on the day set, the Board may adjourn until the next day, or until the next regular meeting as they may order.

4. The Division, subject to Chapter 60, these rules, and at the direction of the Board, shall send out notices; attend all meetings and hearings of the Board; scrutinize all appeals and applications for variances to see that these rules and Chapter 60 are complied with; shall keep the minutes of the Board's proceedings; shall compile all required records; shall maintain the necessary files and computer programs and generally supervise all clerical work of the Board.
5. The Division shall notify the applicant or appellant, owner or authorized management agent, of the hearing by depositing in the United State regular mail a notice to the address stated in the application for appeal or variance.
6. The Division, shall request from the appellant or applicant, owner or authorized management agent such additional information and as may be required to fully advise the Board with referenced to the appeal or application for a variance, whether such information and data is called for by the official forms or not. Any failure or refusal on the part of the appellant or applicant to furnish the additional information or data shall be grounds for the dismissal of the appeal.
7. The agendas of the meetings will be posted in City Hall at least twenty four (24) hours before the meeting.

ARTICLE IV- Hearings

1. Hearings shall be held by the Housing Appeals Board in the MSC Board Room, Municipal Service Center, 1551 E. Martin Luther King Jr. Parkway, Des Moines., unless otherwise noticed.
2. Quorum shall be a majority of the appointed members at the time of the meeting; however, quorum shall not be less than three (3) members. A final vote shall require the concurring vote of a majority of the voting members.
3. Hearings shall be open to the public.
4. The appellant or applicant, owner or authorized management agent, may appear on his own behalf or be represented by an individual authorized to speak on his/her behalf at said hearing. If appellant or applicant fails to appear at the hearing, any matter that had been referred by the Division shall be referred to the legal department with the imposition of the full penalty fine. For all other hearings the Board may proceed to dispose of the matter on the record before it or defer the matter until the next regularly scheduled meeting to allow an appearance.
5. All material, written, or otherwise, submitted as a part of any presentation will become a permanent part of the record and will not be returned.
6. At a hearing, the order shall be as follows:
 - a. Staff will present a statement of facts and present a recommendation.
 - b. Appellant's or applicant's presentation or comments
 - c. Interested parties' presentation or comments
 - d. Inspectors comments
 - e. Questions to staff
 - f. Appellant's rebuttal
 - g. Close the hearing for Board deliberation
 - h. Action of the Board

Article V

1. Motion Required. All action requiring a vote shall be moved and seconded by voting members.
2. 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. Motion to Amend. No other motion shall be made while a motion is pending, except by friendly amendment, which is made to assist or clarify the Board's decision in disposing of the motion and shall not take precedence over the motion on the floor.
4. Action on Motion. A motion is approved if a majority of the voting members vote aye. A motion is defeated if a majority of the voting members vote nay. If the vote is tied (an equal number of ayes and nays), a motion is defeated.
5. Call for Vote. At the conclusion of the 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. 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.

Article VI – Final Disposition of Agenda Item

1. The final disposition of any staff referral, appeal or application for variance, appeal from an order, decision or determination shall be in the form of a Decision and Order.
2. The Decision and Order shall:
 - a. In the case of a staff referral for failure to comply with a notice of violation:
 - i. Grant an extension of time to complete the repairs, or
 - ii. Refer the matter to the legal department for prosecution, and/or
 - iii. Impose a fine.
 - b. In the case of an application for a variance or modification:
 - i. Grant the variance or modification with or without conditions,
 - ii. Deny the application.
 - c. In the case of an appeal:
 - i. Grant the appeal,
 - ii. Modify the appeal, or
 - iii. Deny the appeal,
 - d. Every appeal shall be disallowed unless the concurring vote of a majority of the voting members shall favor the appeal or application.
 - e. In the case of an application for reconsideration of a board action:
 - i. A motion to must be made by a board member who was on the prevailing side in the original action or by a board member absent at the time of the original action,
 - ii. A second motion must be made by a board member who opposed the first motion,
 - iii. A tie vote upholds the original action.
3. Any appellant or applicant may withdraw his appeal of application at any time prior to the decision by the Board.

Article VII – Officers

1. The Board shall annually elect a Chair and a Vice Chair at its January meeting, unless the Chair or Vice Chair vacates their seat upon which there shall be an election at the next regularly scheduled meeting.
2. The Chair shall preside at all meetings and hearing of the Board. In the event of the absence or disability of the Chair, the Vice Chair shall preside. In the event or disability of the Chair and the Vice Chair, the most senior Board member shall preside.
3. The Chair, subject to these rules, shall decide all points of procedure unless otherwise directed by a majority of the Board in session at the time.
4. The Chair may designate members of the Board to make personal inspections when necessary from time to time.
5. The Chair shall, subject to these rules and further instructions from the Board, transact the official business of the Board.
6. The support staff will be assigned from the Division. Staff shall prepare the Decision and Order to be signed by the Chair or the person presiding over the meeting.

Article VIII – Minutes

1. The minutes of each meeting shall be kept on file with the Division. The minutes shall contain a record of those appearing for and against each case, the resolution relating to each case acted on, and the vote of each Board member.
2. A recording of each meeting shall also be kept on file with the Division.

Article IX – Amendments

These rules may be amended or modified by an affirmative vote of not less than four (4) members of the Board, provided that such amendment be presented in writing.

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.

Adopted by the Board, on _____, 2018.