

ARTICLES OF RULES AND PROCEDURES

**CHRISTIAN COUNTY
ZONING BOARD OF APPEALS**

Adopted February 25, 2020

ARTICLE I

GENERAL PROVISIONS

Section 1.1. Formulation. These Rules and Procedures (“Rules”) are formulated and adopted in conjunction with and as supplementary to the provisions of applicable Illinois Statutes and the Christian County Zoning Code (“Zoning Code”). To the extent that these Rules conflict with the Zoning Code or Illinois Statutes, the Zoning Code and Illinois Statutes control.

Section 1.2. Definitions.

- (a) All terms used in these Rules shall have the same definitions as they are set forth in the Zoning Code.
- (b) The Christian County Zoning Board of Appeals shall be referred to as the “ZBA.”
- (c) As used in these Rules, the term “Petitioner” shall refer collectively to Appellants under Article XI Division II of the Zoning Code, Applicants for Special Use Permits under Article XI Division III of the Zoning Code, Applicants for Variances under Article XI Division IV of the Zoning Code, and Proponents of Amendments (both text amendments and rezonings) under Article XI Division V of the Zoning Code.
- (d) As used in these Rules, the term “Interested Party” shall refer to the following:
 - (i) All persons and entities required by statute, ordinance, or the Zoning Code to receive Notice of the relevant public hearing via postal service; and
 - (ii) All persons and entities with a direct economic interest in the proposed action, but only where such interest is greater than the interest of the general public.

Section 1.3. ZBA Office. The Office of the ZBA shall be at 300 South Baughman Road, Taylorville, Illinois 62568, and shall be maintained by the Zoning Administrator.

Section 1.4. Records. The records of the ZBA proceedings are public records and, as such, are available for review in the ZBA office by appointment with the Zoning Administrator.

ARTICLE II

OFFICERS AND DUTIES

Section 2.1. Chairperson. One member of the ZBA shall be named as Chairperson of the ZBA by the Christian County Board Chairperson. If the ZBA Chairperson's office becomes vacant, the County Board Chairperson shall designate a new ZBA Chairperson.

Section 2.2. Acting Chairperson. If the ZBA Chairperson is absent from a ZBA meeting, then the ZBA members in attendance at that meeting shall elect from its present members an Acting Chairperson to act as Chairperson for that meeting.

Section 2.3. Chairperson Presides. The Chairperson shall supervise the affairs of the ZBA, and shall preside at all hearings and meetings of the ZBA. The Chairperson shall have the authority to control the proceedings in a manner consistent with these Rules.

Section 2.4. Secretary. The Zoning Administrator, or his or her designee, shall serve as Acting Secretary for each ZBA meeting to take meeting minutes and record official action.

ARTICLE III

MEETINGS

Section 3.1. Regular Meeting Schedule. Regular ZBA meetings shall be held on the fourth Tuesday of each month at 6:00 p.m., or at such other times as the Chairperson may direct.

Section 3.2. Regular Meeting Cancellations. Regular meetings may be cancelled by the Chairperson when there are no cases pending or when it is apparent that there will not be a quorum, in which event notification of said cancellation shall be given to members of the ZBA.

Section 3.3. Special Meetings. The ZBA may hold special meetings at the call of the Chairperson or at the written request of four (4) members of the ZBA, provided at least 48 hours' notice of any such meeting is given in person or by mail, including e-mail, to each member.

Section 3.4. Regular and Special Meeting Duration. The ZBA Chairperson, in his or her discretion, may limit the duration of a Regular or Special ZBA Meeting to a reasonable length. If a public hearing has commenced but evidence has not closed by the end of the ZBA meeting, then the ZBA Chairperson shall continue the public hearing to either the next Regular Meeting or to a Special Meeting, and shall continue the public hearing from time to time until evidence is closed.

Other agenda items that are not addressed due to time constraints of a Regular or Special Meeting shall be continued to the next Regular ZBA Meeting, or to a Special Meeting called in accordance with Section 3.3 of these Rules.

Section 3.5. Open Meetings Act. All meetings of the ZBA shall held in accordance with the Open Meetings Act of Illinois.

ARTICLE IV

ORDER OF BUSINESS

Section 4.1. Order of Business. The order of business for public meetings, unless otherwise set by the Chairperson in his or her sole discretion, shall be as follows:

- a) Roll call and declaration of quorum.
- b) Approval of minutes of previous meeting(s).
- c) Call of cases on agenda that are not set for hearing, that are set for pre-hearing consultation, or for which a continuance is being requested.
- d) Call of cases set for public hearing, and conduct public hearings in the following order:
 - i. Appeals pursuant to Article XI Division II of the Zoning Code,
 - ii. Applications for Special Use Permits under Article XI Division III of the Zoning Code,
 - iii. Applications for Variances under Article XI Division IV of the Zoning Code,
 - iv. Proposed Amendments (both text amendments and rezonings) under Article XI Division V of the Zoning Code, and
 - v. Other hearings.
- e) Public comment on Agenda items, other than public hearings set forth in (d) above.
- f) ZBA consideration of other Agenda items presented by members of the Board.
- g) Adjournment.

ARTICLE V

CONTINUANCES

Section 5.1. Continuances. Continuances of public hearings may be granted at the discretion of the Chairperson of the ZBA.

Section 5.2. Request for Continuance. A Petitioner who needs to request a continuance of a hearing must submit such request in writing to the Zoning Administrator at least 48 hours prior to the start of the hearing. If a Petitioner makes a request for a continuance with fewer than 48 hours remaining before the scheduled hearing, then the Chairperson of the ZBA may grant the request for continuance and may also require that the Petitioner pay reasonable costs and fees incurred as a result of the late request in an amount to be determined by the Chairperson of the ZBA. Such costs and fees must be paid prior to the start of the continued hearing date.

ARTICLE VI

FAILURE OF PETITIONER TO APPEAR

Section 6.1. Petitioner Failure to Appear. Whenever a Petitioner or his/her representative fails to appear, the ZBA may choose to dismiss the case for want of prosecution.

Section 6.2. Notice of Dismissal for Want of Prosecution. In cases that are dismissed for want of prosecution, the Petitioner shall be furnished written notice by the ZBA.

Section 6.3. Dismissal for Want of Prosecution Not a Decision on the Merits. Dismissal for want of prosecution is not a determination on the merits and shall not itself bar the filing of a new application.

ARTICLE VII

RULES AND PROCEDURES FOR PUBLIC HEARINGS

Section 7.1. Open Meetings Act. All public hearings shall be subject to the Illinois Open Meetings Act.

Section 7.2. Registration of Public Participants Wishing to Testify, Other than the Petitioner or Interested Parties.

- (a) Any member of the public, other than the Petitioner, Interested Parties, and their respective witnesses, that wishes to testify in a public hearing must sign in at the public hearing. There will be three Sign-up Sheets available:
 - i. Those wishing to testify in favor of the proposal. Each individual shall have three minutes to present his/her testimony.
 - ii. Those wishing to testify in opposition of the proposal. Each individual shall have three minutes to present his/her testimony.
 - iii. Those wishing to testify neither in favor or opposition to the proposal. Each individual shall have three minutes to present his/her testimony.

- (b) If a person is unable to complete his/her testimony in three minutes, he/she may submit testimony in written form at the hearing.

Section 7.3. Interested Parties.

- (a) **Registration.** Anyone who is an "Interested Party," as that term is defined by these Rules, and who wishes to cross-examine witnesses or present evidence at a public hearing must complete and file an appearance with his or her original

signature with the Zoning Administrator no later than 5:00 PM on the business day preceding the public hearing. Such appearance shall state the person's name, township of residence, basis for being an "Interested Party" in the public hearing as that term is defined by these Rules, and the nature of the evidence that the Interested Party is going to present, if any.

- (b) **Time Limitation.** Each Interested Party is limited to five minutes total for both cross-examination of witnesses and presentation of evidence, including witness testimony.
- (c) **Delegation of Time.** An Interested Party may delegate his or her entire five-minute allotment to one representative (the "Representative") to speak on behalf of the delegating Interested Party. Multiple Interested Parties may delegate their time to one Representative, who may then use the total time delegated. The Representative may be an Interested Party or an attorney licensed to practice in the State of Illinois. An Interested Party's election to delegate his or her time to the Representative must be in writing and filed along with the Interested Party's Appearance, as set forth in this Section 7.3(a). Once the Interested Party's election to delegate is filed, that Interested Party may not revoke or modify his or her election to delegate. The Representative may not, in turn, delegate accumulated time to another representative. If the Representative does not use all of the time delegated to him or her, then any unused time is waived. There may be multiple Representatives in one public hearing (in the case where different Interested Parties elect to delegate their respective time to different Representatives). Each Interested Party electing to delegate his or her time shall only delegate to one Representative, and the delegating Interested Party may not retain time to cross examine or present testimony on his or her own behalf.
- (b) **No Subpoena Power.** An Interested Party or, if he/she has elected to delegate his/her time, a Representative may present witness testimony, including that of the Interested Party, but may not subpoena or compel a witness to testify.
- (c) **No Guarantee of Right.** Filing an appearance as an Interested Party does not guarantee any right to any party, including the right to cross-examine any witness or present evidence at a public hearing. The party's right to cross-examine and present evidence as an Interested Party shall be determined by the Chairperson based on these Rules, including those factors set forth in Section 7.4.

Section 7.4. Limitations on Evidence or Testimony. The Chairperson may impose reasonable limitations on evidence or testimony presented by persons and parties, such as additional time limits and barring repetitious, irrelevant or immaterial testimony. The ZBA shall not be bound by strict rules of evidence; however, irrelevant, immaterial, or unduly repetitious evidence shall not be admissible. The Chairperson shall rule on all questions related to the admissibility or materiality of evidence. The Chairperson may impose reasonable conditions on the hearing process, including on the necessity for evidence and cross-examination, and may identify those witnesses whose testimony will

or will not be subject to cross-examination.

The Chairperson shall base his or her decisions related to the limitation of evidence, testimony, and cross-examination on the following factors:

1. The complexity of the issue;
2. Whether the witness possesses special expertise;
3. Whether the testimony reflects a matter of taste or personal opinion or concerns a disputed issue of fact;
4. The degree to which the witness's testimony relates to the factors to be considered in approving or denying the proposal; and
5. Such other factors appropriate for the hearing.

The Chairperson may make determinations regarding limitations on evidence, testimony, and cross-examination either immediately after the witness's testimony or in advance based on anticipated testimony.

The Chairperson, in his or her discretion, may adopt rules particular to a hearing specifying which factual issues are considered relevant to the decision and may limit cross-examination to witnesses addressing those issues.

Section 7.5. Pre-hearing Consultation. The ZBA may conduct a pre-hearing consultation with the Petitioner, interested parties, and all others in attendance, to discuss the conduct of the hearing and to determine the length of the proceedings.

Section 7.6. Hearing Conduct. The Chairperson of the ZBA may take such actions as are required to maintain an orderly and civil hearing. Discourtesy or disorderly conduct shall be deemed a breach of order, and such misconduct shall be dealt with as appropriate.

Section 7.7. Proof of Notice. Proof of lawful notice shall be introduced into evidence before the public body.

Section 7.8. Record of Proceedings. A record of proceedings shall be made as directed by the Chairperson of the ZBA. The Petitioner shall pay for the attendance of a court reporter at all public hearings and for any transcript, if a transcript is ordered by the ZBA or the County.

Section 7.9. Petitioner Appearance. At a public hearing, the Petitioner may appear on his or her own behalf or may be represented by an attorney or authorized agent.

Section 7.10. County Participation. The County shall be a party in every proceeding, and need not appear.

Section 7.11. Testimony under Oath. 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 ZBA.

Section 7.12. Identification of Participants. People participating shall identify themselves for the record, giving their name and the township in which they live.

Section 7.13. Questioner Limitation. The examination of a witness shall not be used by the questioner to offer testimony or evidence of the questioner.

Section 7.14. Order of Presentation. The order of presentation of evidence at a public hearing shall generally be as follows, but may be modified as determined appropriate by the Chairperson:

1. Identification of Petitioner.
2. Statement of the Zoning Administrator regarding the nature of the case, relief sought, and submittal of proof of notice.
3. Swearing in of all witnesses and Interested Parties giving testimony.
4. Petitioner presents his/her/its testimony and other evidence.
5. ZBA Members' examination of Petitioner's witnesses and other evidence.
6. Interested Parties in favor of the Petitioner present evidence.
7. Interested Parties in opposition to the Petitioner conduct cross-examination of Petitioner's witnesses and present other evidence.
8. Petitioner's cross-examination of opposing Interested Parties and their witnesses.
9. ZBA Members' examination of opposing Interested Parties and their witnesses.
10. Testimony and other evidence by other members of the public in favor of the application.
11. Testimony and other evidence by other members of the public in opposition to the application.
12. Testimony and other evidence by persons who are neither in favor nor opposed to the application.
13. Additional examination by ZBA Members, if any.
14. In some cases re-examination may be allowed.
15. Report by Zoning Administrator, including recommendation, if any.
16. Summary/Closing by Petitioner.
17. Summary/Closing by Interested Parties.
18. Rebuttal/Closing by Petitioner.
19. Evidence deemed closed.

At any point in the proceedings, the ZBA Members may call upon witnesses who have not previously testified, such as County staff and County consultants. The ZBA Members may ask questions at any time during the hearing of any Petitioner, Interested Party, or witness.

Section 7.15. Board Deliberation. The ZBA shall conduct its deliberations and vote in a public session. The ZBA may vote on any matter before it at the same meeting at which evidence as to such matter is concluded. If the ZBA Chairperson considers additional time for deliberation necessary, then the ZBA Chairperson may direct that the ZBA will defer its vote to a subsequent public session.

Section 7.16. Recommendations/Decision. At the conclusion of deliberations, consistent with the relevant section of the Zoning Code, the ZBA shall prepare a resolution. Such resolution shall contain, if required by the Zoning Code, the ZBA's advisory report, recommendation, and/or decision based upon the record. The contents of the resolution and/or advisory report shall be consistent with the requirements of the Zoning Code, and shall include, as required by the relevant section of the Zoning Code, the ZBA's findings and factors considered.

Section 7.17. Timing of Final Decision. Final decisions or recommendations shall be made within a reasonable time after the date of the closing of a public hearing. Any Petitioner may withdraw his/her/its application or his/her/its appeal, as the case may be, at any time prior to the decision thereon by the ZBA.

Section 7.18. Absent Members Vote. Members of the ZBA who are absent for one or more hearing sessions, but who affirm that they have either listened to the audio tape or read the transcript of the absented session(s), shall be eligible to vote.

Section 7.19. Concurrence Required. The concurring vote of four (4) members shall be necessary for granting a variation(s), affirming an appeal, or recommending in favor of a special-use permit or zoning amendment. If the motion fails to receive four (4) votes in favor of the application, a motion denying the application shall be formally entered on the record. However, if the votes of the absent but eligible members, when added to the number voting in favor of the Petitioner, would total four (4) or more, the matter shall be postponed to the next meeting of the Board. If the motion to approve an application fails to receive four (4) affirmative votes at the next regular meeting, a motion denying the application shall be formally entered on to the record.

For all other matters, the concurring vote of a majority of members present shall be sufficient to pass the matter.

Section 7.20. Summary Record. If a summary record (as opposed to a verbatim transcript) of any hearing is made, such summary record shall be approved as to accuracy by the members of the Board and shall be kept as a part of the public record at the office of the Board.

Section 7.21. Notice of Decision. As soon as practicable after a written recommendation or written resolution is adopted, notice thereof shall be given to the Petitioner, and to such other parties of record as have requested such advice.

Section 7.22. Duration of Order.

- (a) No order of the Board permitting the erection or alteration of a building shall be valid for a period longer than 12 months from the date of such order unless an application for building permit for such erection or alteration is filed within such period and such erection or alteration is commenced and proceeds to completion in accordance with the terms of the permit when issued.
- (b) No order of the Board permitting a use of land or a use of a building or premises shall be valid for a period longer than 12 months from the date of such order unless such use is established within such period; provided however, that where such permitted use is dependent upon the erection or alteration of a building, such order shall continue in force and effect if a building permit for such erection or alteration is commenced within such period, and proceeds to completion in accordance with the terms of the permit when issued.
- (c) In the case of variations granted by the Board, one extension of time not exceeding 12 months may be granted by the Board, upon written application made within the initial 12-month period, without further notice or hearing; said right to so extend said time shall not include the right to grant additional relief by expanding the scope of the variation.

ARTICLE VIII

AMENDMENTS AND OTHER PROVISIONS

Section 8.1. Amendments. These rules of procedure may be amended by the affirmative majority vote of all members of the Board.

Section 8.2. Suspension. The suspension of any rule of procedure in any specific case may be authorized at any meeting of the ZBA by a majority vote of those members present, provided such suspension is not in conflict with applicable Illinois statutes or the Christian County Zoning Code.

Section 8.3. Severability. If any provision in these Rules is declared unconstitutional or invalid by a court of competent jurisdiction, such provision shall not affect the validity or enforceability of the remaining provisions of these Rules.