

RULES AND REGULATIONS

BOARD OF APPEALS

ARTICLE I

Jurisdiction and Duties

1-1 The Board shall hear and decide appeals from, and review any order, requirement, decision or determination made by an administrative official charged with the enforcement of the Unified Development Ordinance, when request to do so has been filed in accordance with the Unified Development Ordinance, these Rules and Regulations and State Statutes.

1-2 Chapter 39, Unified Development Ordinance, of the Code of Ordinances is hereby adopted by reference and incorporated in these rules.

1-3 This Board of Appeals (BOA) shall hear appeals from the Housing Code, Dangerous Structures Ordinance, Construction Code and Zoning Ordinance as delineated in the City of Holland Code of Ordinances.

ARTICLE II

Officers

2-1 The Board of Appeals (BOA) shall consist of 6 regular members and up to 2 alternate members, who shall be appointed by City Council. The Board composition shall represent a variety of backgrounds to ensure that members have experience in a variety of disciplines to make determinations on applications as outlined in Article 1-3 above.

2-2 Each member appointed to the BOA shall serve for a 3-year term, ending on June 30. If a member leaves the Board before their term has expired, a newly appointed member may serve the remainder of the term they filled, plus 2 full terms. After serving 2 full consecutive terms a regular or alternate member may request to be appointed again after 6 months has passed.

2-3 One of the regular members of the City Planning Commission may also be a member of the Board of Appeals. (No more than one.)

2-4 At the first meeting in July of each year, the Board shall elect one of its members as Chair and another of its members as Vice-Chair.

2-5 The Clerk of the Board shall be designated by Council, subject to the provisions of the Holland City Charter or Unified Development Ordinance.

2-6 Except when absent from the city or temporarily unable to perform their duties, the Chair shall preside over all meetings of the board and preserve order thereat. The Vice Chair shall preside during the absence of the Chair.

2-7 The Chair and Vice-Chair shall have the same discussion and voting rights and duties as any other member of the Board.

2-8 The Chair shall, subject to these rules, decide points of order or procedure, unless otherwise directed by a majority of the members of the Board in session at the time.

2-9 The Chair shall appoint any committees that may be found necessary in the opinion of the Board.

2-10 Subject to these rules, the Clerk shall conduct all official correspondence, compile the required records, maintain and keep, in good order, the necessary files and records, prepare and send notices required, and in general perform the clerical work of the Board.

2-11 The Board will report to City Council any member that has 3 or more unexcused absences during a calendar year. Council will determine what action will be taken. An unexcused absence means that the member did not notify the Clerk that they were unable to attend a meeting, or provided less than 24 hours' notice before the meeting that they were unable to attend. Unexcused absences can result in meetings being called without a quorum. The Clerk of the Board shall keep track of all unexcused absences.

ARTICLE III

Meetings

3-1 Regular meetings of the Board shall be held on the fourth Thursday of each month. The time and place of the meeting shall be set forth in the Notices of Meeting generated by the Clerk of the Board.

3-2 Special meetings may be called, upon notice to the members of the Board as far in advance as possible, but definitely not later than 18 hours prior to the time of the meeting. When the meeting includes hearings, notice shall be sent not later than 7 days prior to such meeting.

3-3 In addition to regular and special meetings, the Board shall hold an agenda study session on the same day as its regular meeting. The study sessions shall be at a time and place designated in the Notices of Meeting generated by the Clerk of the Board. The study sessions shall be for the purpose of reviewing the items on the

agenda. The minutes for agenda study sessions shall be summarized and incorporated in the minutes of the regular meeting for which the agenda study session was held.

3-4 Notices of all meetings shall be posted in compliance with Act 267, Michigan Public Acts of 1976, as may be amended. The Clerk of the Board is designated as the person responsible to give all notices of meetings required by law and to post the same in City Hall.

3-5 All meetings shall be open to the public.

3-6 The presence of 4 appointed members shall constitute a quorum.

ARTICLE IV

Appeals and Procedure

4-1 The procedure for all appeals shall be as specified in Section 39-12.12 of the Unified Development Ordinance.

4-2 Appeals shall be filed on forms supplied by the Clerk of the Board. Any communication purporting to be an appeal shall be regarded as mere notice of intent until it has been made on the required form. A separate application shall be filed for each parcel which is the subject of an appeal except that one application may be filed for multiple parcels under common ownership that are adjoining or contiguous to each other provided that the relief requested is part of a single project. A fee shall be paid for each application.

4-3 All appeals shall be made by the owner or authorized agent of the owner or other person with an interest in the property in question or property affected by the appeal. The authority of such agent shall be presented in writing with the appeal to the Board.

4-4 All applications or appeals shall be filed 28 days prior to the meeting at which the applicant seeks to have a hearing. All applications filed after the specified deadlines will be scheduled for hearing at the next meeting.

ARTICLE V

Hearings

5-1 Any party requesting a hearing may appear in person or by his agent or attorney. The same privilege is granted to other interested persons.

5-2 The applicant and other interested persons shall be subject to questions by those favoring or opposing the appeal, or by those representing them, and by the members of the Board.

5-3 The procedure for the hearing of cases shall be as follows:

- The Chair shall introduce the first case on the agenda and the Clerk shall read the notice of hearing and present any other pertinent information contained in the application.
- The Chair shall then call upon the appellant or applicant to present their application and give reasons why the appeal or application should be granted. Board members and City staff may ask questions as necessary to obtain information regarding the case.
- The Chair may request City staff to provide additional information or explain the reason why a permit was denied.
- The Chair then shall ask if there are interested persons present who wish to be heard. Anyone wishing to speak shall be requested to give his or her name and address and to keep his remarks to the point so as to conserve the time of the board. The name and address of each person who speaks shall be recorded in the minutes of the meeting. Remarks may be summarized.
- The Chair shall then ask the Clerk if any written comments were received, regarding the application.
- The Chair then shall ask the appellant or applicant whether they wish to be heard in rebuttal or whether any Board member desires additional information.
- The Chair then shall declare the public hearing closed. The Board shall deliberate and decide each matter after the completion of the public hearing. Unless the Board, by majority vote, decides to consider the matter at another time.
- The Chair shall then call for the next agenda item, which shall be treated in the same manner as outlined above.

ARTICLE VI

Disposition of Appeals

6-1 The Board shall decide all appeals and applications within 30 days after the final hearing thereon. Failure to decide within this time shall not be deemed an approval of the application.

6-2 Any person having presented an appeal may, with the consent of the Board, withdraw their application at any time prior to action thereon, but if a motion has been made, and pending either to grant or to dismiss, such motion shall have precedence.

6-3 If the Board determines that it needs additional information, it may direct staff to provide additional information and allow the applicant or other interested persons to respond to the additional information. If the matter is tabled after the public hearing has been closed and the Board desires additional information from staff prior to deciding the matter, when the matter is removed from the table, the Chair shall allow the applicant or other interested persons to address the Board but only in response to the additional information provided by staff.

6-4 After the public hearing for an application is closed (or at another time if approved by motion) the Chairperson shall call for a motion to approve or deny an application. Any member of the Board may make the motion. The Chair (or Vice-Chair if the Chair is absent) is discouraged from making the motion unless no other member is able to do so. An appeal shall not be deemed approved unless a motion to approve receives a vote as required under rule 6-5. If a motion to approve fails to receive the required majority under rule 6-5, the application is denied and the findings of fact shall be based on the determinations of those persons voting against the application and shall be summarized after the vote. The Board shall not have the opportunity to make another motion to approve the application. If a motion is made to deny, and the motion receives the support of a majority of the members present, the appeal is deemed denied. If a motion to deny fails, a motion to approve may be made.

6-5 A concurring vote of a majority of the appointed members shall be necessary to reverse any order, requirement, decision, or determination of any administrative official or to decide in favor of the applicant any matter upon which the Board is required to pass under the Unified Development Ordinance, or to affect any variation in such ordinance. Except as otherwise specified in the Unified Development Ordinance or in these rules, any other action may be taken by affirmative vote of a majority of members present.

6-6 All members present at a meeting shall vote on each matter presented to the Board unless excused due to a conflict of interest. If a member believes they have a conflict of interest with respect to an application, the member shall report the concern at the study session. A member shall have a conflict of interest when:

- A relative, other family member, or close business associate is involved in any request for which the Board is asked to make a decision;
- The Board member has a business or financial interest in the property involved in the request, or has a business or financial interest in the applicant's company, agency or association;
- There is a reasonable appearance of a conflict of interest, as determined by the Board.

The Board shall vote on whether the member must be excused from voting prior to conducting the public hearing on the application and the member shall step down from the Board for the public hearing and deliberations on the matter.

6-7 A decision of the Board shall be final and shall be effective on the day of such decision, however, a person having an interest affected by the Unified Development Ordinance may appeal to the circuit court in accordance with State law.

6-8 In case an appeal is denied, no like appeal shall be considered unless;

- Such new appeal is based upon materially changed plans; or
- The neighborhood reaction and conditions are definitively changed; or
- Six months or more has elapsed since the date of denial on the previous application.

6-9 When a grant by the Board involves the erection of, or any modification to, a structure, in no case shall the resolution by the Board be valid for a period longer than one year without compliance by the appellant.

6-10 A copy of the resolution passed by the Board either denying or granting the appeal shall be given to City staff for the property file, and to the party making the appeal or to their authorized representative.

ARTICLE VII

Records

7-1 All records shall be on the required forms, and after final disposition shall be filed with the Clerk of the Board in such manner that they shall be accessible to the Board and to the public at all reasonable hours.

ARTICLE VIII

Amendments to Rules

8-1 Amendments to these rules of procedure may be made by the Board at any regular meeting, provided notice of such amendment has been given in writing to each member of the Board three days prior to such meeting. The suspension of any rule may be ordered at any meeting by 2/3 vote of all members appointed, provided that by suspension the State Statutes are not violated.

Approved and adopted October 23, 1997

Amended July, 1999 (as to 4-2)

Amended December 6, 2018

Amended March 23, 2023

Amended September 26, 2024