

**ORGANIZATION, PROCEDURES, RULES AND REGULATIONS
OF THE
COLERAIN TOWNSHIP BOARD OF ZONING APPEALS**

**ADOPTED
January 26, 1995**

**AMENDED
September 27, 2000**

**AMENDED
October 27, 2010**

**COLERAIN TOWNSHIP BOARD OF ZONING APPEALS
4200 SPRINGDALE ROAD
CINCINNATI, OHIO 45251**

COLERAIN TOWNSHIP BOARD OF ZONING APPEALS

RULES AND PROCEDURES

ARTICLE I

ORGANIZATION AND OFFICERS

The Board shall organize annually at the first regular meeting in February and elect officers for the ensuing year. A Chairperson, Vice Chairperson and Secretary shall be elected.

The elected officers shall assume office immediately following the election. In the event that a member cannot fulfill his office or in a case where a member may not wish to accept office, the officer in charge shall conduct a special election.

The Chairperson shall, subject to these rules and procedures, and with the advice and consent of the Board, transact all official business of the Board, engage the necessary employees, (subject to funding by the Board of Township Trustees), direct their work and exercise general disciplinary powers.

The Chairperson shall preside at all meetings and hearings of the Board. In the absence of the Chairperson, the Vice Chairperson shall act as presiding officer.

The Chairperson, or in the absence of the Chairperson, the presiding officer shall administer oaths and the Board may compel the attendance of witnesses.

Subject to these rules, the Chairperson shall decide all points of order and procedure, unless overruled by a majority of the Board in session at that time. The Chairperson shall appoint all committees which may be deemed necessary.

The Chairperson presiding at the meeting or hearing and the Secretary shall sign the resolutions, minutes and other documents adopted or approved by the Board.

The Zoning Administrator/Inspector shall perform the following duties:

Report as to all official matters occurring between meetings.

Give due notice of hearing of each appeal to the appellant and the parties in interest as required by law.

Send all notices required by the rules and order of the Board. Make the necessary inspections of premises.

Obtain the necessary plats and documents relative to cases. Prepare summons, dockets and calendars for hearings and meetings.

The Zoning Recording Secretary shall perform the following duties:

Attend all meetings and hearings of the Board.

Prepare minutes of Board proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and keep records of its examinations and other official actions. Cause such minutes and records to be duly attested and immediately filed in the Colerain Township Office as public record.

Submit legal ads to the local newspaper as required by law.

Prepare all official correspondence.

ARTICLE II

MEETINGS

Regular meetings of the Board for the hearing of appeals and the transaction of business shall be held monthly as needed. Organizational meetings shall be held in February even though no appeals may be scheduled. Special meetings for the hearing of appeals and the transaction of business may be called by the Chairperson or by a quorum, provided, however, that notice of such meetings is given to each member at least forty-eight (48) hours before the time set.

When announcement of a special meeting is made at any meeting of the Board held prior thereto, such announcement shall be deemed sufficient notice for those members present.

Three members of this Board shall constitute a quorum.

ARTICLE III

APPEALS

The procedure of appeal to the Board shall be as follows:

Appeals may be filed with the Zoning Inspector where it is alleged there is error in any order, requirement, decision or determination made by an Administrative Official in the enforcement of the Zoning Resolution, or where, owing to special conditions, the literal enforcement of the provisions of said Resolution will result in unnecessary hardship, or by any person aggrieved or any officer of the Township affected by any order, requirement, decision or determination of the Administrative Officer where based upon the regulations of said Resolution.

Every appeal shall be filed in writing by a person having legal and/or equitable interest in the property affected or by an attorney representing persons having legal or equitable interest. An officer of a corporation may file a written appeal on behalf of a corporation having legal and/or equitable interest in the property affected. However, a corporation must be represented by legal

counsel at the public hearing. An attorney or a person having legal and/or equitable interest in the property affected, in the appeal must be present at the public hearing. An officer of the Township may file an appeal and represent the Township at the public hearing.

Every appeal shall be filed in writing upon the forms approved by the Board and in addition to the data furnished on the official forms, every appeal shall contain an explicit typewritten statement setting forth:

- A. The action of the Administrative Officer upon which the appeal is based, whether it be the granting or refusal of a zoning certificate or an order, requirement, decision or determination made under the provisions of the Zoning Resolution.
- B. An explicit description of the construction or use.
- C. Special reference to the section or sections of the Zoning Resolution which, it is claimed, authorize the determination sought.
- D. Names and addresses of the owners of all abutting lots and lands, those adjacent to the frontage of the premises in question, and in addition those within a 200' radius of any property line.

Plats and plans drawn to scale under the seal of a registered engineer or architect showing the actual shape and dimensions of the lot in question, the exact size and location of said lot of the buildings, structures and accessory buildings existing, and the lines within which the proposed building or structure shall be erected or altered, the existing and intended use of each building or part of a building, the number of dwelling units provided or to be provided, and such other information with regard to the lot and neighboring lots as may be necessary for the proper hearing and determination of the appeal. Where a new building is being constructed, all dimensions shown on the plans relating to the location of the building and size of the lot to be built upon, shall be an actual survey. Where addition, alternation or the use of existing building or premises is involved, the plot plans filed must be based upon the actual survey. Eight (8) sets of plot plans must be submitted to the Board of Zoning Appeals at the time the appeal is filed. Every appellant, other than an appellant acting for or as an officer of the Township, filing an appeal with the Township Board of Zoning Appeals, shall pay an appeal fee either in cash or by check to the Township.

No appeal shall be entertained where an appeal has been previously determined involving the same premises and zoning regulations, except in appeals where new plans or new facts and circumstances pertaining to said regulations are presented showing changed conditions which, in the opinion of the Board, warrant the filing of such appeal. The Board may also entertain previously determined appeals under a minor review provision where the changes in facts, circumstances or plans are of a minor nature as determined by the Board. In the event that the Board determines that the changes in plans, circumstances or facts are of a major nature, the Board will only review the case after a new appeal is filed on the part of the applicant.

Any communication received by the Board giving testimony on a case after a public hearing has been concluded is not considered a part of the record of the appeal, unless the Board specifically requests communication from the applicant or any other parties at the conclusion of the public hearing. Such communications requested by the Board must be received no later than fourteen (14) days after the public hearing.

APPEAL FEES

Every appellant filing an appeal with the Colerain Township Board of Zoning Appeals on or after January 1, 1995, shall pay an appeal fee, either in cash or by check made payable to Colerain Township Board of Trustees as prescribed by the Colerain Township Zoning Fee resolution.

The appeal fee shall be in addition to the payment of any other fees which may accrue thereafter and no portion of the appeal fee shall be refunded, whatever the outcome of the appeal.

Every appeal shall be taken within twenty (20) days after the date of the action of the Administrative Officer from whom the appeal is taken, by filing with said Officer and the Board a notice of appeal specifying the grounds thereof as set forth in these rules.

Any communication purporting to be an appeal shall be regarded as mere notice to seek relief and shall not be considered by the Board until it is made in the form required by these rules.

ARTICLE IV

DOCKET CALENDAR

Each appeal filed in proper form shall be numbered serially and shall be placed upon the docket calendar of the Board by the Zoning Administrator/Inspector as set forth below. The numbers shall begin anew on January 1 each year and shall be hyphenated with the number of the year in which the appeal is filed.

No appeal shall be set for hearing on the docket calendar of the Board unless all required documents and appeal fees have been filed with the Administrator at least twenty-one (21) days prior to the hearing. No other matter to be considered by the Board, nor any request to bring a matter before the Board, not already set for hearing on the docket calendar of the Board, shall be set for hearing on the docket calendar unless such documents to be considered or requests to be heard are filed in writing with the Zoning Administrator/Inspector at least ten (10) days prior to the hearing.

If a document necessary for the filing of an appeal or an adjudication by the Board is removed from the custody of the Zoning Administrator/Inspector, the appeal or matter to which the document pertains shall be removed from the docket calendar of the Board and shall not be reset on the docket calendar except in accordance with the time schedule set forth above. Nothing in this Article shall be construed so as to preclude the Board from accepting any evidence or

testimony submitted by any person at a hearing properly scheduled on the docket calendar of the Board.

The Board may dismiss an appeal for lack of prosecution of the appeal on the part of the appellant.

ARTICLE V

NOTICE OF HEARING

The Zoning Administrator/Inspector shall give notice of hearing of each appeal to the parties in interest by certificate of mailing not less than ten (10) days prior to the date of hearing. All notices given shall be mailed to the addresses from the County Auditor's current plat book. Also, notice of such public hearing shall be made by publication in one or more local newspapers of general circulation in the county at least ten (10) days prior to the date of hearing.

ARTICLE VI

HEARING CASES

All hearings of the Board and all official actions by the Board shall be open to the public, with the exception that matters pertaining to litigation, personnel, or property acquisition may be conducted in executive session in accordance with state law.

The appellant shall appear at the hearing either in person or by attorney or agent. The Zoning Administrator/Inspector or his/her representative shall be heard first, the appellant or his/her representative next, and thereafter persons appearing in support of or opposition to the appeal. In the event of the absence of the appellant, the appeal may be placed upon the calendar for hearing at a later date at the discretion of the Board, and notice thereof given as set forth in Article V of these rules.

Cases shall be heard in the order received and numbered according to Article IV of these rules. The Board may, at its discretion and upon majority vote, amend the order of hearings on the agenda for a particular meeting. Such vote shall take place prior to the beginning of the hearings for that meeting.

ARTICLE VII

DISPOSITION OF APPEALS

The final disposition of every appeal shall be in the form of a written resolution which shall:

- A. grant or deny wholly or partly; or
- B. modify the order, requirement, decision or determination from; or

- C. make sure order, requirements, decision or determination as ought to be made; or
- D. authorize the variance from the term of the Zoning Resolution, where the literal enforcement thereof will result in unnecessary hardship.

The adoption and journalization of the decision on an appeal, unless otherwise set forth in these By-Laws, shall be as follows:

The straw vote on an appeal shall be made upon conclusion of discussion on the appeal, on the date of the public hearing; the Board shall direct the Board Administrator to prepare the resolution granting or denying the appeal. In the event an appeal is granted and the resolution is journalized, a zoning certificate to the appellant shall be issued by the Zoning Administrator. The certificate shall specify the BZA case number. The date of journalization shall be the date of adoption.

The Board may set out in said written resolution the condition or conditions upon which the Zoning Certificate may be issued in order to carry out the purpose and intent of the Zoning Resolution. The concurring vote of at least three (3) members shall be necessary to adopt the written resolution finally disposing of an appeal. In the event of a tie vote, the Board is required to schedule the case for rehearing at the Board's expense.

Should a Board member be absent from the meeting, or for any reason does not hear the case presented, that member shall abstain from voting on the case.

Any appellant may withdraw his appeal by formal letter to the Board at any time prior to the adoption of the written resolution finally disposing of the appeal.

ARTICLE VIII

AMENDMENTS

Amendments to these rules may be introduced at any meeting of the Board and voted upon at any subsequent meeting, provided, however, that the Zoning Administrator/Inspector shall notify each member by mail of the consideration of such amendment for passage prior to such subsequent meeting.

ARTICLE IX

OFFICIAL ACTION

Every official action of the Board not provided for in these rules shall require at least three (3) affirmative votes for adoption.

ARTICLE X

RECORDS

All records and documents shall be kept on file in the Township office in such manner as to be available for inspection during normal business hours.

ARTICLE XI

ORDER OF BUSINESS

The order of business at meetings and hearings of the Board shall be as follows:

1. Meeting called to order.
2. Pledge of Allegiance.
3. Explanation of procedures.
4. Roll call.
5. Swearing in: appellants, attorneys and all speakers in the cases.
6. Hearing of appeals.
7. Resolutions for adoption.
8. Unfinished business.
9. Approval of minutes of previous meeting.
10. Administrative matters.
11. Adjournment.

ARTICLE XII

CODE OF CONDUCT

The Colerain Township Board of Zoning Appeals has been granted the authority pursuant to Article 3, Section 3.3 of the Zoning Resolution for the Unincorporated Territory of Colerain Township, Hamilton County, Ohio and Article VIII organization, Procedures, Rules and Regulations of the Colerain Township Board of Zoning Appeals, to implement rules and standards of conduct enabling the Board to effectively comply with the spirit and letter of the Resolution. The purpose of the Zoning Resolution is to permit the residents of Colerain Township to control zoning in their community, yet all members of the public have an equal opportunity to be heard concerning zoning. In order to maintain the quality, integrity, impartiality, and efficiency of the Colerain Township Board of Zoning Appeals and its members, it is hereby resolved that members of said Board will have no personal contact or discussion with applicants about matters before the Board from the application date until a decision by the Board is journalized. Board members shall inform applicants of this rule whenever and wherever personal contact is attempted concerning any matter pending for consideration by the Board. Where personal contact has been attempted, it should be reported to other members of the Board and the member contacted should carefully scrutinize the circumstance to determine if any conflict of interest has arisen or if he or she can no longer decide the matter in an unbiased manner.