

ARTICLE 29
ZONING BOARD OF APPEALS

7 TCC 1-29 (a) Creation. There is hereby established a Zoning Board of Appeals (hereinafter ZBA).

7 TCC 1-29 (b) Appointment, Terms, Residency, Removal, and Vacancies.

(1) Appointment.

- i. The ZBA shall consist of seven (7) members and two (2) alternate members appointed by the Chairman of the County Board, with the advice and consent of the County Board, by resolution.
- ii. The Chairman of the County Board shall name of the members of the ZBA, a Chairman, and in the case of a vacancy, he shall name a successor Chairman. The officers of the ZBA shall be a Vice Chairman named by the ZBA and a Secretary who shall be the Community Development Administrator.

(2) Terms.

- i. The ZBA membership shall serve, respectively, for the following initial terms:
 - (1) One member for one year;
 - (2) One member for two years;
 - (3) One member for three years;
 - (4) One member for four years;
 - (5) Three members for five years;

Thereafter each member of the ZBA shall serve a term of five years.

- ii. Alternate members shall serve as members of the ZBA only in the absence of regular members, with the alternate member who has the greatest amount of time remaining on his term to have priority over the other alternate member.

(3) Residency.

- i. All members of the ZBA shall be residents of Tazewell County and shall be residents of separate Townships at the time of appointment. Any member who moves into a Township which already has a resident member or any member who moves out of the County shall cease to be a member of the Zoning Board. Residency shall be determined at date of initial appointment.
- ii. Not less than four (4) members of the ZBA or in the case the total members reverts to five (5), not less than three (3) members shall be residents of the unincorporated areas of the County. This specific requirement shall not apply to the Alternate Members of the ZBA.

- (4) Removal for Cause.
 - i. The County Board shall have the power to remove any member of the ZBA for cause after a public hearing. Reasonable notice of such hearing (not less than ten (10) days) shall be given in writing to the member concerned.
- (5) Vacancies.
 - i. In the event of a vacancy caused by the death, removal for cause, or resignation of a member of the ZBA, a successor shall be named by the Chairman of the County Board for the unexpired term, subject to confirmation by the County Board at its next meeting.

7 TCC 1-29 (c) ZBA - Powers and Duties. The ZBA shall have the following powers and duties:

- (1) To review and analyze all information filed with the Community Development Administrator in each case prior to all public hearings, and if deemed necessary, to personally inspect the physical property which is the subject of the petition.
- (2) To attend all hearings and deliberative sessions. Those members not present at the hearing shall not participate in the decision of the case, unless they have listened to the entire tape, read all transcripts and have reviewed the entire case file.
- (3) To hear, review, and make recommendations to the County Board concerning amendments to the text of these regulations and the Zoning District Map in accordance with the provisions of Article 26.
- (4) To hear, review, and decide on applications concerning special use permits in accordance with provisions of Article 25
- (5) To hold hearings, review and make decisions in regard to applications for variances in accordance with the provisions in Article 21.
- (6) To hear, review, and decide appeals from administrative decisions made by the Community Development Administrator or other administrative official concerning any order, requirement, or determination in accordance with the provisions of Article 34.
- (7) To hear, review and decide appeals from the administrative decisions of the Erosion Control Administrator in accordance with the provisions of 8TCC 3-11 (Erosion, Sediment and Stormwater Control Ordinance) of these regulations.
- (8) To adopt such rules to govern its proceedings as are necessary for the administration of its responsibilities, not inconsistent with State law or these regulations.

7 TCC 1-29 (d) Powers and Duties of the Chairman and Vice Chairman. The Chairman of the ZBA, and in his absence, the Vice Chairman, shall have the following powers and duties:

- (1) To supervise the affairs of and preside at all meetings of the ZBA;

- (2) To appoint such committees and sub-committees of the ZBA as may be necessary to carry out the purposes of the ZBA and to be an ex-officio member of all such committees;
- (3) To administer oaths and compel the attendance of a witness before the ZBA.

7 TCC 1-29 (e) Conflict. Any member of the ZBA who has a direct or indirect interest in a matter before the ZBA, or who lives within five hundred (500) feet of any property which is the subject of ZBA action, shall disclose such fact at the hearing, prior to voting on the matter. If such member has a direct or indirect financial interest in such property, he/she shall not sit with the ZBA nor act with the ZBA in such manner under consideration.

7 TCC 1-29 (f) Quorum and Meetings.

- (1) For the sole purpose of taking evidence in scheduled hearings, regular meetings of the ZBA may be called to order without a quorum being present. No further business may be transacted, including making recommendations based on the evidence heard, until a quorum consisting of five (5) members of the ZBA are present. The Chairman shall be considered and counted as a member. (Added Amendment #11-10/01)
- (2) The concurring vote of at least five (5) members shall be necessary to reverse any order, requirements, decision, or determination of the Community Development Administrator, or to decide in favor of the applicant in any matter upon which it is required to pass under these regulations.
- (3) All meetings of the ZBA shall be open to the public.
- (4) Regular meetings of the ZBA shall be held once a month at such date and time that the ZBA determines.
- (5) Regular meetings may be canceled by the Chairman of the ZBA when there are not cases pending. Notification must be given to members not less than forty-eight (48) hours prior to the time set for such meeting.
- (6) Special meetings may be called by the Chairman of the ZBA at his discretion or upon the request of two (2) or more members of the ZBA provided that forty-eight (48) hours notice is given to each member and to the media.
- (7) In the event that the Chairman and Vice Chairman of the ZBA are absent during a regular or special meeting, the members present shall select one of the members present to act as a Chairman pro tem.

7 TCC 1-29 (g) Order of Business. All meetings of the ZBA may proceed as follows:

- (1) Call meeting to order and declaration of quorum;
- (2) Announce hearing procedures;
- (3) Call items on agenda as published;

- (4) Deliberation of items on agenda;
- (5) Unfinished business;
- (6) New Business; and
- (7) Adjournment.

7TCC 1-29 (h) Secretary, Minutes and Records.

- (1) The Community Development Administrator shall act as the Secretary to serve the ZBA and shall attend all meetings and hearings of the ZBA.
- (2) The Secretary shall keep minutes of all proceedings of the ZBA, which minutes shall be a summary of all proceedings before the ZBA, attested to by the Secretary, and which shall include the vote of each member upon every question, or if absent or failing to vote, indicating such facts.
- (3) The minutes shall be approved by a majority of the members of the ZBA voting.
- (4) Every rule, regulation, or amendment, every repeal thereof, and every order, requirements, decision, or determination of the ZBA shall be filed in the office of the ZBA at the office the Community Development Administrator and shall be a public record.
- (5) The Secretary shall maintain all records of ZBA meetings, hearings, and proceedings, shall conduct the official correspondence of the ZBA, and shall administer the clerical work of the ZBA.
- (6) All records shall be a public record and the Secretary shall be the custodian of the files of the ZBA.

7 TCC 1-29 (i) Legal Consultant. The State's Attorneys of Tazewell County, or his designated Assistant, shall be consulted on all legal questions, parliamentary questions, and interpretations of questions where the powers of the ZBA are not clearly defined, and shall generally serve as Legal Counsel to the ZBA.