

# **BYLAWS FOR THE ENFIELD ZONING BOARD OF APPEALS**

## **ARTICLE I PURPOSE AND AUTHORIZATION**

The objectives and purposes of the Zoning Board of Appeals of the Town of Enfield, Connecticut are those set forth in Chapter 124 of the Connecticut General Statutes, as amended, and the Charter of the Town of Enfield, and those powers and duties delegated to the Enfield Zoning Board of Appeals by the aforementioned statutes by ordinance.

## **ARTICLE II NAME**

The Board shall be known as the Enfield Zoning Board of Appeals.

## **ARTICLE III OFFICE OF AGENCY**

The Office of the Enfield Zoning Board of Appeals shall be maintained by the Planning Office. The Planning Office, with the approval of the Chairperson, shall prepare the agenda for regular and special meetings, provide legal notice of all meetings to Board members, arrange proper and legal notices of hearings, attend to correspondence of the Board, amend the Zoning Board of Appeals application forms and submit it to the Board for approval as may be necessary from time to time, and other such duties as required.

## **ARTICLE IV MEMBERSHIP**

The membership and terms of office of all members of the Board shall be as specified in the Charter of the Town of Enfield for Enfield Zoning Board of Appeals members and shall consist of five (5) regular members and three (3) alternate members. Resignation from the Board shall be in written form and transmitted to the Chairperson, who will then forward same to the Chairman of the Town Council of the community.

## **ARTICLE V ATTENDANCE AND DESIGNATION OF ALTERNATE MEMBERS**

All Board members, whether regular or alternate, are expected to attend every Board meeting unless a reasonable excuse for absence is given. The alternate member of the board has all the duties and powers of regular board members when designated to act in accordance with the provisions of 8-5(a) of the General Statutes. Section 8-5(a) of the General Statutes provides: "If a regular member of a zoning board of appeals is absent, he may designate an alternate from the panel of alternates to act in his place. If he fails to make such designation or if he is disqualified, the chairman of the board shall designate an alternate from such panel, choosing alternates in rotation so that they shall act as

nearly equal a number of times as possible. If any alternate is not available in accordance with such rotation, such fact shall be recorded in the minutes of the meeting [Chapter Four Composition of Board, Panel of Alternate and Terms of Office- CT Zoning Board of Appeals Newly Revised 6<sup>th</sup> Edition]. An alternate member shall not take part in voting on any item unless appointed by the Chairperson to fill the vacancy of a regular member. An alternate may take part in discussions.

## **ARTICLE VI OFFICERS AND THEIR DUTIES**

Section 1 The officers of the Board shall consist of a Chairperson, Vice-Chairperson, and a Secretary, one of whom shall be a member of the minority represented party.

Section 2 The Chairperson shall preside at all meetings and hearings of the Board and shall have the duties normally conferred by parliamentary usage on such officers. The Chairperson shall have the authority to appoint committees, certify expenditures of funds up to \$50.00 without prior approval of the Board, call special meetings, and generally perform other duties as may be prescribed in these bylaws. He/she shall be one of the regular board members. He/she shall have the privilege of discussing all matters before the Board and voting thereupon. Special committees may be appointed by the Chairperson for the purposes and terms that the Board approves.

Section 3 The Vice-Chairperson shall assist the Chairperson as required and in the absence of the Chairperson, shall preside at meetings.

Section 4 The Secretary shall be responsible for roll calls, reading of legal notices and signing of Board approved documents. In the absence of the Chairperson and Vice-Chairperson, the Secretary shall serve as Chairperson. In the absence of the Chairperson and Vice-Chairperson, the Secretary shall preside at meetings. In the absence of the Secretary, the Chairperson shall appoint a Secretary pro-tem.

## **ARTICLE VII ELECTION OF OFFICERS**

Section 1 A biennial organizational meeting shall be held in January of the even numbered years at which time officers will be elected and the Bylaws reviewed and be made part of the minutes of the biennial organizational meeting. Any regular member unable to attend the organizational meeting shall be allowed a proxy vote for each office. Proxy vote authorization must be in writing. Only regular members can vote in the organizational meeting either in person or by proxy.

Section 2 Nominations shall be made from the floor at the biennial organizational meeting and election of officers specified in Section 1 of Article VI shall follow immediately thereafter.

Section 3 A candidate receiving a majority (4 out of 5) vote from the regular membership of the Board shall be declared elected and shall serve for two years or until his/her successor shall take office.

Section 4 Vacancies in offices shall be filled as soon as possible by vote of the regular members either in person or by proxy following the procedures set forth in Sections 1-3 above.

Section 5 Resignations of officers shall be in written form.

## **ARTICLE VIII MEETINGS**

Section 1 Regular Meetings will normally be held on the fourth (4<sup>th</sup>) Monday of each month, except the month of August, at 7:00 p.m. at the Town Building, but shall be consistent with the meeting schedule filed with the Town Clerk as required by Connecticut State Statutes. Public hearings will normally be held on the same evening, but at the convenience of the Board may be held on other occasions, subject to proper legal notification. In the event of conflict with holidays or other events, a majority at any meeting may change the date of said meeting. The Planning Office shall, with good intent, make arrangement to have the packets at the Board members' homes a minimum of seven (7) days prior to the regularly scheduled meeting date.

Section 2 A majority of the Members of the Board, present and voting, shall constitute a quorum (3 of 5), and the number of votes necessary to transact business shall be a majority (4 of 5) of those members of the Board present and voting, except as noted in the State Statutes- Section 8-7 of the statutes requires the concurring vote of four (4) members of the Board (1) to reverse any order, requirement, or decision of the official charged with the enforcement of the zoning regulations, (2) to decide in favor of an applicant any matter upon which the Board is required to pass under any bylaw, ordinance, rule or regulation, or (3) to vary the application of the zoning regulations.

A two-thirds (3 of 5) vote of members present and voting is necessary to consider and act on items not included on the filed agenda of regular meetings.

Section 3 Special meetings may be held at the call of the Chairperson. The notice of such meeting shall specify the purpose of such meeting and no other business may be considered. Board members shall be notified in writing not less than 48 hours in advance of such a meeting.

Section 4 All Board meetings shall be open to the public when in session and shall not be open to the public when in executive session when so voted by at least a two-thirds (3 of 5) majority of the Board members present and voting.

Section 5 Unless otherwise specified herein, Robert's Rules of Order shall govern the proceedings at meetings of the Board.

## ARTICLE IX DISQUALIFICATION

No member of the Board shall participate in a hearing or decision of the Board upon any matter in which he/she is directly or indirectly interested in a personal or financial sense. In the event of such disqualification, such fact shall be entered on the records of the Board.

## ARTICLE X ORDER OF BUSINESS

Section 1 Unless otherwise determined by the Chairperson, the order of business at regular meetings shall be:

- a. Call to Order
- b. Fire Evacuation Notice
- c. Pledge of Allegiance
- d. Roll Call
- e. Old Business
- Legal Notice
- f. New Business
- Legal Notice
  - i. Variances(s)
  - ii. Automotive Location Approval(s)
  - iii. Service Station Location Approval(s)
  - iv. Zoning Enforcement Officer Appeal(s)
- g. Approval of Minutes
- h. Correspondence / Staff Report
- i. Other Business
- j. Adjournment

Section 2 A motion from the floor must be made and passed in order to dispense with any item on the agenda or change the order of business.

Section 3 All actions taken by the Board on application before them shall be implemented by a motion of a positive nature and voting accomplished by raising of hand(s). The Board shall render a formal, official, collective statement of reasons for its action.

Section 4. Formal, Official, Collective Statements can take two forms.

- Motion to Approve that Includes Reasons- The motion to approve includes the formal, official, collective statement that summarizes the reasons within the motion. Reason should include those which support or do not support the application.

- Motion to Approve that Does Not Include Reasons- The motion to approve does not include a formal, official, collective statement. Each Board member when voting shall state the reason(s) for his or her vote.
- Reasons stated must be supported by substantial evidence on the record.

## **ARTICLE XI HEARINGS**

Section 1 The Board may hold public hearings, in addition to required hearings, when it decides that such hearings will be in the public interest, provided such hearing is permitted under the General Statutes or the Charter of the Town of Enfield or the ordinances adopted pursuant to said Charter.

Section 2 All public hearings prescribed by law shall be held in accordance with the requirements set forth for such hearings in Chapter 124 of the Connecticut General Statutes.

Section 3 A competent stenographer shall take the evidence, or the evidence shall be recorded by a sound-recording device, at each hearing before the Board in which the right to appeal lies to the Superior Court. Proceedings of the hearings shall be incorporated into the permanent records of the Board.

Section 4 All appeals to the Zoning Board of Appeals from an order, requirement, decision, or determination of the Zoning enforcement Officer (ZEO) shall be taken within fifteen (15) days of such action by the ZEO. The fifteen (15) shall commence upon receipt of certified mailing, legal advertisement, or other avenues of publications, as permissible by law.

## **ARTICLE XII CONDUCTING THE PUBLIC HEARING**

Section 1 The Chairperson of the Board shall preside at the public hearing. In the event of his/her absence, the Vice-Chairperson shall preside, and in the event of the absence of both, the Secretary shall preside.

Section 2 The Secretary or the Secretary pro-tem shall read the legal advertisement and note the dates and newspapers in which the advertisement appeared.

Section 3 The Chairperson shall describe the method of conduct of the hearing and comments shall be limited to the subject advertised for hearing. (Review Procedural and Policy Statement)

Section 4 The Chairperson shall first call for statements from the applicant, Members of the Board shall then have opportunity to comment. The Chairperson shall then call for statements from the proponents. The opponents of the subject for the public hearing shall be given equal opportunity to comment. Each group shall make its

presentation in succession without interference. Second and third privileges of comment will be in the same order.

Section 5 It shall be made clear at the hearing that all questions and comments must be directed through the Chair and only after being properly recognized by the presiding officer.

Section 6 Where judged to be necessary, all persons recognized shall approach the hearing table in order to facilitate proper recording of comments. Before commenting on the matter before the hearing each person shall give his/her name and address.

Section 7 The presiding officer shall assure an orderly hearing and shall take necessary steps to maintain the order and decorum of the hearing at all times. The presiding officer shall reserve the right to recess the hearing in the event the discussion becomes unruly and unmanageable.

Section 8 The show of hands by those persons present shall not be allowed on any general question presented at the public hearing. The hearing shall be conducted only for the purpose of taking testimony to be considered in deliberations of the regular meeting of the Board.

### **ARTICLE XIII EMPLOYEES**

Section 1 Within the limits of the funds available for its use, the Board may employ such staff personnel and/or consultants as it sees fit to aid the Board and its work. Appointments shall be made by a majority vote of the entire membership present for such vote.

### **ARTICLE XIV AMENDMENTS**

These bylaws may be amended by a two-thirds (3 out of 5) vote of the entire voting membership of the Commission, only after the proposed change has been read and discussed at a previous regular meeting.

Adopted November 20, 1985

Amended Article V – May 16, 1990

Amended Articles VII, VIII and XI – February 10, 1992

Adopted Article XIV – Amendments – January 31, 1994

Approved November 21, 1994

Amended Articles VI, VII, VIII, & XII – February 25, 2002 (scrivener errors, grammar, punctuation & spelling)

Amended Articles V, VII, VIII, IX, X, XI, & XII (scrivener, grammar, punctuation, spelling, & amendments) and added Appendices I & II - April 26, 2004. Effective April 28, 2004

Amended in general: Added Appendix III (Revised application form); Revised Appendix II (Agenda Template revised to delete references to ZBA as Local Authority for Suitability of Location per amendment to CGS); Amended Article III (add Appendix III and periodic amendment process, as required); add here: “Amended in General...” Effective 4/24/2006

Amended Article VIII – April 28, 2008

Amended Article XI – Section 4 changing date from 30 to 15 – April 29, 2013

Amended Article V- added language from Connecticut General Statutes Section 8-5a.- Designation of Alternate Members to Act also found in Chapter Four Composition of Board, Panel of Alternate and Terms of Office- CT Zoning Board of Appeals Newly Revised 6<sup>th</sup> Edition -February 2019

Amended Article X-Order of Business- added Fire Evacuation Notice, Pledge of Allegiance, Legal Notice, Old Business, New Business, and removed Public Hearings (old & new)-February 2019

Amended Article IX- removal of Appendix I reference.

Amendment to include Procedural and Policy Statement- February 2019

Amended Article III- (scrivener errors, grammar, punctuation & spelling)-March 2019

Amended Article V-Removal of language to be consistent with Connecticut General Statutes Section 8-5a.-March 2019.

Amended Article VIII- to include numeric format. -March 2019

Amended Article X- removal of Appendix II reference and modification to order of business. – March 2019

Amended Article XI Section 4- to include language from the Enfield Zoning Regulations Section 11.10 Procedures and to clarify timeframe of ZEO appeals to ZBA. – March 2019

Amended Article XII- Referenced Procedural & Policy Statement and removal of Appendix II reference. March 2019

Amended Article XIV- to include numeric reference. -March 2019

Adopted Amendments to Amendments to Article III, V, VII, VIII, and XII. May 2019

Amended Article X- Order of Business to include missing agenda items- December 16, 2019

Amended Procedural & Policy Statements- to reduce redundancy and identified conflicting language. December 16, 2019

Amended Article X- Order of Business- As proposed to Section 1, Section 3, and Newly Created Section 4 at the December 16, 2019 meeting.

Article XI- Hearings- To remove current language and add the language from Section 11.10 Procedures of the Enfield Zoning Regulations

### PROCEDURAL & POLICY STATEMENTS

Welcome audience

How business will be conducted:

- Secretary will read the legal notice
- Applicant will be asked to come before the Board
- Applicant to state their name and address for the record
- Present application
- Questions from the Board
- Audience given an opportunity to speak in favor or against the application
- If the audience does speak the applicant shall have final opportunity for comment
- Additional information not submitted with application shall be presented while the public hearing is open. Once the hearing is closed no information will be accepted for review by the Board
- Comments made by the public that are not relevant to the exercise of the commission's statutory or regulatory authority will not be considered by the commission in reaching its decision.

Once the application has been presented and the public hearing closed the applicant may have a seat in the audience while the Board conducts its discussion and most likely its decision. The applicant is welcome to stay for the remainder of the

hearings but it's not necessary. Written confirmation on the Board's decision will be received from the Town.

**Definition of when a variance can be granted:**

A variance can be granted where such grant will not affect the overall purpose of the Zoning Ordinance, and where strict interpretation of the Ordinance will result in a hardship. A hardship exists where the Zoning Ordinance uniquely affects a parcel of land differently from other properties, and where use of the property or reasonable use of the land would be impossible without the variance. Self-imposed or financial hardships cannot, by law, be considered as a reason for granting a variance.

When applicable:

Appoint an alternate member to vote when there is not a full quorum of regular members.

Appoint an alternate member to vote when a regular member will be abstaining from the vote due to a personal conflict.

When only four members will be voting, inform applicant(s) they require all four votes (in favor) in order for the application to pass. Applicant may defer their application until the next regular meeting when there might be more members present.

During the Organizational Meeting only regular members may vote.