



**CITY OF LEBANON
ZONING BOARD OF ADJUSTMENT
BY-LAWS**

AUTHORITY:

1. These by-laws are adopted under the authority of New Hampshire Revised Statutes Annotated, Chapter 673:1, and the Zoning Ordinance of the City of Lebanon.

OFFICERS:

1. A Chairperson shall be elected annually, no later than in the month of January by a majority of the Board, unless the deadline for electing a Chairperson is waived by a majority of the Board. The Chairperson shall serve for a term beginning on the day of election and ending the following January 31st. This term may be extended only as necessary to elect a new Chairperson. A Chairperson elected mid-year shall serve only the unexpired term of the Chairperson he/she replaces. The Chairperson shall preside over the meetings and hearings, appoint such committees as directed by the Board, and shall affix his/her signature in the name of the Board. *(amended 10/01/07) (amended 01/07/08) (amended 03/16/15)*
2. A Vice-Chairperson shall be elected annually, no later than in the month of January by a majority of the Board, unless the deadline for electing a Vice-Chairperson is waived by a majority of the Board. The Vice-Chairperson shall serve for a term beginning on the day of election and ending the following January 31st. This term may be extended only as necessary to elect a new Vice-Chairperson. A Vice-Chairperson elected mid-year shall serve only the unexpired term of the Vice-Chairperson he/she replaces. Said Vice-Chairperson shall preside in the absence of the Chairperson and shall have the full powers of the Chairperson on matters which come before the Board during the absence of the Chairperson. *(amended 10/01/07) (amended 01/07/08) (amended 03/16/15)*

MEETINGS:

1. Regular meetings shall be held at City Hall, normally on the first and third Mondays of each month. Other meetings may be held at the call of the Chairperson provided notice is given to each member at least 48 hours prior to the time of such meeting. In case of emergency, the Chairperson may call a meeting without prior notice.

2. Meetings shall normally end at 10:00PM unless extended by motion, which must be seconded, and receive a majority vote of the board. At any meeting, where, in the Chairperson's opinion, the agenda appears too cumbersome to complete within the time allotted, the Chairperson may set a specific time limit for each agenda item and shall make an announcement to that effect at the beginning of the meeting. *(amended 3/6/06)*
3. No member shall leave, once a meeting is called to order, without permission of the Chairperson. *(amended 3/6/06)*

QUORUM:

A quorum for regular business shall consist of three members. Such a quorum may hear and decide cases; but three positive votes shall be necessary to grant an exception or a variance.

Under the new provisions and appointment of Alternate Members, whenever it becomes impossible for a regular member to be present, or whenever it comes to the attention of the Chairperson that a regular member for any good reason believes he should not sit on the hearing for any particular case, (refer to disqualification of member) it shall be the duty of the Chairperson to request one of the alternate members to sit in place of such member either for the evening or for the one case. In so sitting, the alternate member shall have all the powers and duties of a regular member in regard to the appeal or appeals, or other business of the ZBA on which the regular member is unable to sit.

DISQUALIFICATION OF MEMBER:

No member shall participate in deciding or sit upon the hearing of any application or appeal with regard to an administrative appeal, special exception or variance if:

- A. That member has a direct personal or pecuniary interest in the outcome which differs from the interest of other citizenry; or
- B. That member would be disqualified for any cause to act as a juror upon the trial of the same matter in any action at law, namely;
 1. Is related to any applicant or abutter;
 2. Has assisted or advised the applicant or any abutter;
 3. Has directly or indirectly given his opinion or has formed an opinion;
 4. Is prejudiced to any degree regarding the case;
 5. Employs any attorney appearing before the Board;
 6. If it appears to a reasonable person that the member is not indifferent or impartial with regard to the case.

(Based on RSA 500-A:12 Examination of Jurors)

- A member who is disqualified shall remove himself from the board and shall

sit with the public until such time as the board has completed its consideration of the case at that meeting. The member may then return to the board.

- When an uncertainty arises as to whether a member is disqualified under RSA 673:14, The board shall vote on the question but such vote shall be advisory and non-binding. Any person may request such a vote at any time.
- If as a result of disqualification the board loses its quorum, then there shall be an adjournment or recess of consideration of the matter until there is a quorum either at the same meeting or the next available meeting.

ORDER OF BUSINESS:

The order of business for regular meetings shall be as follows:

- A. Minutes of previous meetings shall be read (previously), corrected if necessary and approved.
- B. Disposition of appeals under consideration (adjourned hearings).
- C. Hearings of appeals (new hearings).
- D. Non-public Sessions (if necessary) pursuant to RSA 91-A:3.
- E. Discussions and/or decisions.
- F. Adjournment.

PUBLIC HEARING:

The conduct of the public hearings shall be governed by the following rules:

- A. The Chairperson shall call the meeting to order.
- B. The Chairperson shall read to the Board and the public the pending application.
- C. The applicant shall be called to present his appeal and all those appearing in favor of the appeal shall be allowed to speak.
- D. All those in opposition to the appeal shall be allowed to speak.
- E. The applicant and those in favor shall be allowed to speak in rebuttal. Those in opposition to the appeal may, with the permission of the Chair, be allowed to speak in rebuttal. *(amended 3/6/06)*
- F. Any speaker who desires to ask a question of an applicant or another speaker shall do so through the Chair. *(amended 3/6/06)*
- G. When the Board is satisfied that all relevant information has been presented,

the hearing on the appeal shall be declared closed pending a decision, and the next case called up.

- H. Members of the Board may ask questions at any point during testimony.
- I. Any board member who desires the reappearance of any party to the case and/or additional documentation and information from an applicant, shall make a motion to that effect which must be seconded, and receive a majority vote of the board in attendance. *(amended 3/6/06)*
- J. Each person who appears shall be required by the Chairperson to state his name and address and indicate whether he is a party to the case or any agent or counsel of a party to the case.
- K. Any party to the case who desires to ask a question of another party to the case must do so through the Chairperson.
- L. Any person who desires the Board to compel the attendance of a witness shall present his request in writing to the Chairperson not later than 3 days prior to the public hearing.

APPEALS:

1. Each appeal to the ZBA shall be made on an approved form and shall come through the Zoning Administrator or the City Manager. The person filing the appeal shall present to the Zoning Administrator a list of all property owners directly abutting this property in accordance with State law. A filing fee, as set by the Lebanon City Council shall be collected at the time of filing. The Zoning Administrator together with the Chairperson of the board, shall determine the date of all appeal hearings as near as possible in accordance with Lebanon Zoning Regulations and New Hampshire State law.
2. The Zoning Administrator shall notify the appellant or appellants and all abutters by Certified Mail, stating the time and place of the hearing, and such notice shall be given not less than five days before the date fixed for the hearing of the appeal. In addition, the board shall also send such a notice to the Planning Board and the City Council, and either board shall be a proper party to appear and to be heard upon any such appeal. The cost of all such mailing shall be payable by the appellant or appellants prior to the required public hearing. At each duly advertised meeting of the ZBA, the Zoning Administrator shall present to the Chairperson all applications scheduled for that meeting.
3. An appeal to the board on any administrative decision or requirement shall be taken within 30 days of the date of such decision or requirement because the person making the appeal believes himself aggrieved by an officer, department, board or bureau of the municipality. Also, if the appeal is on a certain piece of property, the person filing the appeal shall present to the Zoning Administrator a list of all property owners directly abutting this property in accordance with State law. *(amended 03/16/15)*

4. The board shall attempt to decide all cases within 30 days of the closing of the public hearing. Notification of the decision shall be made on a form provided by the board and shall be sent to the applicant, the City Clerk and then filed in the records of the board as kept by the Zoning Administrator.
5. The failure of the board to reach any result by 3 concurring votes constitutes a *de facto* denial unless a subsequent motion is made at the same meeting that garners the required 3 votes.
6. If there are fewer than 5 members present or able to sit on an appeal, the applicant, if requesting a Special Exception or Variance, may choose to continue the hearing until a full board is present. If appealing an administrative decision, the application shall proceed provided a quorum is present. In all cases where the applicant is heard by less than a full 5 member Board, the failure of any motion to receive at least 3 votes will automatically constitute grounds for a rehearing. (amended 3/6/06) (amended 1/4/16)

FORMS:

All forms and revisions thereof shall be adopted by resolution and shall become a part of the by-laws.

PUBLIC NOTICE:

1. Public notice of public hearings on each appeal shall be published in the local newspaper not less than five days prior to said hearing. Such notice shall include the name of the applicant, action desired by the applicant, provision of the Zoning Ordinance concerned, the type of appeal being made, and the time and place of the hearing in accordance with RSA 676:7 Public Hearing; Notice.
2. Notice shall be given not less than five days prior to the hearing to the Chairperson of the Planning Board, the City Clerk and any other parties deemed by the board to have a special interest in the appeal in addition to the abutting property owners.

AMENDMENT:

The by-laws may be adopted by majority vote if read at two successive meetings of the board, and may be amended in like manner.

Adopted: October 18, 1976
Amended: February 19, 1980
Amended: February 21, 1990
Amended: March 6, 2006
Amended: October 1, 2007 (Section 1 Officers)
Amended: January 7, 2008 (Section 1 Officers)
Amended: March 16, 2015 (Section 1 Officers; Appeals)
Amended: January 5, 2016 (Appeals)