

**MARBLE FALLS  
ZONING BOARD OF ADJUSTMENT**

**BY-LAWS AND RULES AND ORDER OF PROCEDURE**

**A. The Board and Selection of Officers.**

The Board shall consist of five regular members appointed by City Council and such alternate members as the City Council may appoint from time to time. In all cases heard by the Board, a minimum of four members must be present. The officers of the Board shall be a Chair and a Vice Chair. The Chair and Vice Chair shall be chosen by the Board at the first meeting of any calendar year in which the Board meets. The Chair and Vice Chair shall serve a term of two year(s). The Recording Secretary as defined in Section 17 of the City's code of Ordinances shall serve as the Secretary at each meeting of the Board.

**B. Presiding Officer, Secretary, Legal Counsel, Minutes and Records.**

The Chair shall preside over all meetings of the Board. The Vice Chair shall preside in the absence of the Chair. If a question over meeting procedures shall arise, Robert's Rules of Order, Newly Revised, shall apply.

The Recording Secretary, who is not a member of the Board, will take and prepare minutes and keep records and perform other clerical duties for the Board.

The minutes of each proceeding shall indicate the vote of each member on each question or the fact that a member is absent or fails to vote. The Board shall keep records of its examinations and other official actions. These minutes and records shall be prepared as soon as practicable after each meeting and upon approval by the Board shall be filed immediately in City Hall and shall be public records.

The City Attorney, who is not a member of the Board, shall serve as Legal Counsel to the Board.

**C. Consultants and Volunteer Assistance.**

The Board of Adjustment, by majority vote, may appoint volunteer, or paid (if approved by the City Council), consultants and citizen committees to assist in the work of the Board. These groups shall serve without vote as advisors in Board meetings. The Board may, upon majority vote, recommend to the City Council appointment of consultants to assist in the work of the Board. Such consultants shall be approved by the City Council in advance prior to commencing the performance of services to the Board of Adjustment. The entire written work product of a consultant, committee, or volunteer relating to the business of the Board shall become part of the records of the Board. The Board may not agree to pay the fees or expenses of any such persons without the prior approval of the City Council.

D. Quorum and Absences.

A quorum shall consist of four members for purposes of conducting routine business, adopting procedural matters of the Board or for conducting a public hearing and to rule on a variance request or to decide in favor of an applicant on any matter.

E. Meetings.

Meetings shall be held when called by the Chair. All meetings shall be open to the public. Notice of all meetings shall be sent to each member at least seventy-two (72) hours prior to the time of the meeting. All meetings shall be posted for public review at least seventy-two (72) hours prior to the meeting date. No approval, disposal or final action shall be taken on any matter before the Board unless all notice requirements mandated by state statute, these rule and procedures or any other ordinance pertaining to the application or notice requirements have been met. An agenda item may be placed on the agenda by the Chair of the Board, the City Manager or by 3 members.

F. Public Comment.

A public comment period will be a regular part of each meeting agenda for remarks unrelated to other agenda items. Public comment will be allowed on each agenda item. Public comment shall be limited to three minutes unless questions by the Board on agenda items are in order. The Board shall not discuss public comment on items not included in the agenda other than to request that such topics be included for discussion on a subsequent agenda.

G. Motions and Discussions.

The Chair shall not make motions. Any motion by a member shall require a second. After a motion has been made and duly seconded, discussion of the motion may be had for a reasonable time. Discussion by members, and opponents and proponents, of a question before the Board shall terminate whenever the Chair shall so rule; provided that the Procedures have been followed.

H. Voting on Motions.

Voting on variances shall be by rotating roll-call vote with the Chair always voting last. Voting on administrative matters may be by voice vote, provided that a roll-call vote shall be taken upon demand of the public or any member of the Board.

I. Reconsideration of Decisions.

In accordance with the Procedural Rules, Reconsideration of an action of the Board shall be granted by the Chair when any affected party, including city staff, for the reconsideration provides documentation sufficient to demonstrate to the Chair that essential facts were not brought to the attention of the Board. One Motion for Reconsideration shall be permitted per agenda matter considered.

J. Conflict of Interest.

A member shall not vote or deliberate in any matter before the Board if the member has an interest that is direct, indirect, financial or otherwise, and such interest would violate the City's Code of Ethics or state law. In any case, where the question of a member's interest is raised, the Chair shall rule on whether the member should be disqualified if the member has not already determined that he or she must step down as a result of a conflict. The Vice Chair shall rule on such matters if the Chair is the person with the potential conflict.

K. Staff Reports Required.

The Board shall take no final action on any matter before it without first obtaining reports from the City departments concerned, which reports shall be prepared as set out in Section 11.3.6 of the City's Code of Ordinances.

L. Public Statements.

Releases and statements to the public and press in the name of the Board shall be made only by the Chair or the Chair's designated representative.

M. Amendments to By-Laws.

These by-laws may be amended at any meeting of the Board by an affirmative vote of a simple majority vote of the members of the Board. All Board rules and By-laws shall be subsequently approved by the City Council.

N. Rules of Procedure or Conduct.

By adoption of these By-laws the Board has adopted the rules of procedure and conduct (the "Procedural Rules") attached hereto as Attachment "A" and which Procedural Rules may be amended from time to time by simple majority vote of the members of the Board. City staff shall prepare a factual summary to be included with

Adopted and approved by the Zoning Board of Adjustment this 11<sup>th</sup> day of September, 2019.

Approved by City Council Resolution 2019-R-10A October 1, 2019.

  
Chair: Jerry Fuller, Board of Adjustment

  
Sabrina Smith, Recording Secretary

## ATTACHMENT "A"

### RULES AND ORDER OF PROCEDURE

1. Chair calls meeting to order
  2. Chair opens public hearing
  3. Staff presents the variance request
  4. Chair takes jurisdiction of case
  5. Chair calls on those FAVORING the request. Applicant's presentation (5 minutes)
  6. Chair calls on those OPPOSING the request. Presentation (5 minutes)  
(If more than one wanting to speak, it is suggested one person be selected as spokesperson)
  7. Chair calls on any other person(s), if any, who have not previously spoken and who neither favor nor oppose the application (limit 3 min)
  8. Applicant is given opportunity to answer objections stated (2 minutes)
- (Upon the motion of any member and a positive vote by a majority of The Board, or upon a ruling by the Chair, these time limits may be equitably extended)
9. Questions from the Board to parties/city staff
  10. The public hearing may be closed and no further testimony is taken from the public (unless requested by the Chair)
  11. When the public hearing is closed, the Chair shall call for action on the item on the agenda
  12. Board may discuss or a motion made. The motion should state a particular finding of fact or may include the finding of fact as stated in the draft order collectively. The motion should include any applicable conditions and whether or not the variance approval is subject to expiration. Each variance request included in an agenda item shall be voted on separately.
  13. If the motion is for approval, the findings of fact shall be stated in the motion as described in item 11. But if the motion is for denial, the motion need only state one findings which the applicant failed to meet.

Note: same holds true for motion to grant with conditions.

**CITIZENS WISHING TO SPEAK BEFORE THE BOARD MUST REGISTER BY SIGNING IN WHERE INDICATED BY THE RECORDING SECRETARY AND STATE WHETHER THEY ARE IN SUPPORT OF THE APPLICATION OR AGAINST OR NEUTRAL.**

**POSTPONEMENT POLICY:**

All postponement requests from the applicant/agent normally should be made in writing by 10:00 a.m. the Friday before the Board meeting. The request should be submitted to the Recording Secretary at the City Hall. The date and time should be noted on the letter by staff.

The postponement of a public hearing requires additional notice and the cost of the notice shall be borne by the applicant if the request is made by the applicant. A request for a continuation of a public hearing does not require additional notice if such continuance is to a specific date and time no later than 60 days from the date of the hearing for which notice was given.

The Board shall automatically review and take final action on any case, which has been on its docket for more than ninety (90) days after opening the original hearing thereon, unless the Board has granted an extension.

**RECONSIDERATION POLICY:**

Any decision for a special exception, variance request or appeal, which has received final action, may be reconsidered once by the Board. A request to reconsider may be initiated by any person adversely affected by the decision. Requests for reconsideration shall be filed in writing with the City Secretary, shall state clearly how the Board erred in its determination, why the action should be reconsidered and shall be supported by such new evidence as was not available at the time of original consideration. The Motion for Reconsideration must be filed with the Recording Secretary within 5 calendar days from the date that the Board took action on the matter. A Motion for Reconsideration is automatically denied, if not granted by the Chair within 5 calendar days from the date the Motion is filed with the Recording Secretary. If the Motion is granted, public notice of the meeting will be performed as was required with the initial consideration of the matter.

**APPEALS OF BOARD FINAL DECISION**

Appeals of a Final Decision of the Board shall be filed with a district court in accordance with Section 211.011 of the Local Government Code by any of the persons named in Section 211.011. The appeal shall be filed by a verified petition stating that the decision of the Board is illegal in whole or in part and specifying the grounds of the illegality. The petition must be filed with the court within ten (10) calendar days after the date of a Final Decision. The action of the Board is considered a Final Decision ten (10) calendar days after the date of an action by the Board to grant, deny or grant with conditions a variance, special exception or appeal. If a Motion for Reconsideration is filed and granted by the Chair the action is considered a Final Decision upon action of the Board related to the Motion for Reconsideration. No party shall be entitled to appeal a decision of the Board if a Motion for Reconsideration has been accepted by the Chair until after the Board considers and takes action pursuant to the Motion.

**EXECUTIVE SESSION (No public discussion)**

The Board of Adjustment will announce it will go into Executive Session, whenever necessary, pursuant to Chapter 551 of the Texas Government Code, to receive advice from Legal Counsel on matters specifically listed on this agenda.