

**RULES OF PROCEDURE  
ZONING HEARING EXAMINER  
CITY OF CINCINNATI, OHIO  
(Adopted on February 17, 2012)  
(Amended and Effective on November 1, 2013)**

**SECTION 1. GENERAL POWERS.**

The Zoning Hearing Examiner (the “ZHE”) of the city of Cincinnati, Ohio (the “City”) is established pursuant to Cincinnati Administrative Code Article XXV, Section 10 (“Administrative Code”); and shall be governed by Cincinnati Municipal Code Title I, Chapter 113; Cincinnati Municipal Code Title XIV, the Zoning Code (“Zoning Code”); and these Rules of Procedure. Whenever a conflict exists between these rules and the applicable laws of the State of Ohio or ordinances of the City, the applicable laws and ordinances govern. These rules supersede any previously adopted rules in their entirety.

**SECTION 2. APPLICATIONS.**

A. Application Forms. Applications shall be made upon forms approved by the ZHE and submitted in the manner prescribed by the ZHE and the procedures set forth in the Zoning Code. An applicant must provide all information requested on an application form and required by the Zoning Code. An application is deemed “complete” when the Department of City Planning and Buildings Director or its designee (“Department Staff”) determines this information is provided and all applicable fees are paid.

B. Perfection of Application. All applications shall be filed with Department Staff at the City’s Business Development and Permit Center located at 3300 Central Parkway, Cincinnati, Ohio 45225 (the “Permit Center”). An application is “perfected” on the date a complete application is received by Department Staff at the Permit Center.

Once perfected, Department Staff shall transmit the application to the ZHE within three business days of its receipt. Following receipt of a perfected application, the ZHE shall schedule a hearing on the application. Notice of the hearing shall be posted on the Department of City Planning and Buildings’s online calendar (“Official Calendar”) which can be found at [www.cincinnati-oh.gov/zoning](http://www.cincinnati-oh.gov/zoning). Notice shall also be published in the City Bulletin and mailed to all persons entitled to receive it.

C. Case Files. All case files are available for review and download through the ProjectDox system ([cagisdocs.hamilton-co.org/ProjectDox](http://cagisdocs.hamilton-co.org/ProjectDox)). Applicants, designated community council representatives, and designated City representatives shall receive automatic access to case files in which they have an interest. All other persons wishing to access a case file must provide the ZHE

with the case number and their email address. Upon receiving this information, the ZHE shall provide them access to the case file.

D. Electronic Submissions. Following the perfection of an application, all additional application materials submitted by an applicant and all written correspondence or documentation submitted by a person wishing to be heard on an application must be submitted electronically through the ProjectDox system ([cagisdoks.hamilton-co.org/ProjectDox](http://cagisdoks.hamilton-co.org/ProjectDox)). Instructions for using the system are available online or upon request.

All application materials, correspondence, and documentation placed in a folder must be formatted for size 8 1/2" x 11" or larger; must be formatted in .pdf, .tiff, or other read-only format; and must include the name of the person submitting the materials, correspondence, or documentation and their address and telephone number. Conforming application materials, written correspondence, and documents must be placed in the appropriate folder no later than three business days prior to the date of the hearing.

The ZHE shall have the discretion to remove any application materials, correspondence, or documentation submitted in violation of these rules from the case file and strike them from the record.

E. Withdrawal. An applicant may request to withdraw its application at any time prior to the issuance of a written decision on the application.

### **SECTION 3. HEARINGS.**

A. Hearings. The ZHE shall conduct regularly scheduled hearings on each Wednesday of the month at 9:00 a.m. in the Main Conference Room of the Permit Center. If no official matters are scheduled for a particular hearing date, then no hearing will be held. All ZHE hearings shall be open to the public.

B. Special Hearings. The ZHE, in its discretion, may conduct special hearings at times and places other than regularly scheduled hearings and upon regular notice to the applicant and all persons entitled to receive it.

C. Postponements and Continuances. An applicant may make a request for postponement of a scheduled hearing in writing to the ZHE at least 48 hours in advance of the hearing; provided, however, if the hearing falls on a Monday, the request must be received by the ZHE prior to 12:00 p.m. Cincinnati time on the preceding Friday. The ZHE shall have discretion to determine whether to grant the postponement request. The ZHE shall give notification of a postponed hearing by posting a notice on the Official Calendar.

Following the expiration of the deadline to make a written request for postponement, an applicant may request the continuance of a scheduled hearing

by appearing at the scheduled hearing and making an oral request to the ZHE. Upon hearing an oral request for continuance, the ZHE may continue the hearing if it determines the applicant has demonstrated good cause that the hearing should be continued.

#### **SECTION 4. HEARING PROCEDURES.**

A. Appearing at a Hearing. An applicant may appear in person at a hearing, or may be represented by a duly authorized agent or attorney. Any reference herein to the term “applicant” shall be deemed to be inclusive of applicant’s authorized agent or attorney. In the event that an applicant fails to appear at a scheduled hearing and has not requested a postponement as set forth in Section 3(C) above, then the ZHE, in its discretion, shall have the right to (i) continue the case until the next regularly scheduled hearing, or (ii) dismiss the case based on the applicant’s failure to prosecute the application.

All parties of record, witnesses, and members of the public wishing to testify before the ZHE shall sign in on a sheet provided by the ZHE and located at the entrance to the hearing room. The ZHE shall have the right to exclude testimony of anyone who has failed to sign in.

B. Oath. All persons providing testimony before the ZHE shall be sworn by the ZHE prior to testifying. An attorney shall not be sworn unless the attorney is acting as a witness or providing testimony rather than acting as an advocate and providing argument.

C. Hearing Etiquette. Prior to testifying at a hearing before the ZHE, all persons appearing shall clearly state their first and last name and their personal address or business address for the record. All parties shall speak clearly into the microphone provided and shall refrain from speaking over other parties. No person shall be permitted to speak from the audience. It shall be the duty of the ZHE to maintain decorum at all times during the hearing. The ZHE shall have the right to expel any person exhibiting a lack of decorum or causing disruptive behavior from the hearing.

D. Hearing Procedure. The order of business at a regularly scheduled hearing shall be as follows:

1. The ZHE will call the item being considered.
2. The ZHE will call the applicant to present its case. The applicant shall have 15 minutes to present its case and to offer evidence and testimony. Upon the expiration of the initial 15 minutes, the ZHE, in its discretion, may grant one extension of up to 15 minutes.

3. If a party of record is represented by an attorney, the attorney for the party of record may cross-examine the applicant and any witnesses offered by the applicant for a period not to exceed the time granted to the applicant for the presentation of its case.
4. If Department Staff has provided a report on the item being considered, the ZHE will call Department Staff to present its report. Department Staff shall have 10 minutes to make its presentation. Neither parties of record nor their attorneys may question or cross-examine Department Staff regarding its presentation.
5. The ZHE will ask whether there are any parties of record or other members of the public who wish to speak on the item being considered. The time limits for each member of the public (and their attorney for those who are represented) shall be a total of five minutes. If the applicant is represented by an attorney, the applicant's attorney shall have the opportunity to question or cross-examine each speaker for a total of five minutes each.
6. The ZHE shall offer the applicant an opportunity to provide any rebuttal or closing argument for a maximum of five minutes.
7. The ZHE will close the hearing on the item.

E. Parties of Record. For the purpose of these rules, "parties of record" shall mean the applicant and any concerned person or entity who submits written correspondence or documentation to the ZHE no later than three business days prior to the date of the hearing. Pursuant to Cincinnati Municipal Code 113-11, the right of cross-examination shall be afforded only to attorneys for parties of record.

F. Ex Parte Communication. No one may discuss any official matter of the ZHE with the ZHE outside of the regularly scheduled hearing, but applicants and members of the public may contact the ZHE to request access to a case file or clarification of these rules. The ZHE shall immediately report to the City Solicitor any instances or attempts of bribery, intimidation, retaliation, or obstruction of official business (as those terms are defined by Chapter 29 of the Ohio Revised Code), or any other instances or attempts of impermissible *ex parte* communication or influence by an applicant or member of the public.

## **SECTION 5. DECISIONS.**

Decisions shall be reduced to writing and disseminated in the manner set forth in the Zoning Code.

**SECTION 6. AMENDMENTS OR SUSPENSION OF RULES.**

A. Effective Date. These rules shall be made effective as of the effective date set forth above, but they do not govern perfected applications received by Department Staff on or before the effective date.

B. Amendments. These rules may be amended or revoked by the ZHE subject to written approval by the city manager.

C. Suspension. The ZHE may suspend these rules at any hearing if, in its discretion, suspension of the rules is necessary to serve the interests of due process.

[END OF RULES OF PROCEDURE]