RULES OF PROCEDURE FOR PROCEEDINGS
BEFORE THE BOARD OF ADJUSTMENT FOR
THE CITY OF INGLESIDE

INTRODUCTION:

The Board of Adjustment is established pursuant to Sections 10.05 and 10.06 of the Ingleside Charter, and Sections 211.008 through 211.009 of Texas Local Government Code, as the appellate body for appeals from building official decisions and zoning cases. In accordance with the Charter and State law, Division 3, Article III, of Chapter 2 of the Ingleside City Code establishes the Board of Adjustment as the appellate body for cases arising under the zoning code and regulations for the City of Ingleside. In accordance with the Chapter, Article II of Chapter 18 of the Ingleside City Code establishes the Board of Adjustment as the appellate body under the following ~~ten~~ eleven codes:

1) ~~Standard~~ International Building Code, ~~1994 Edition including Appendices~~ Currently Adopted Edition.

2) ~~Standard~~ International Plumbing Code, ~~1994 Edition including Appendices~~ Currently Adopted Edition.

3) ~~Standard~~ International Fuel Gas Code, ~~1994 Edition including Appendices~~ Currently Adopted Edition.

4) ~~Standard~~ International Mechanical Code, ~~1994 Edition including Appendices~~ Currently Adopted Edition.

5) Standard Housing Code, 1994 Edition including Appendices B and C.

6) Standard Unsafe Building Abatement Code, 1985 Edition.

7) Standard Swimming Pool Code, 1985 Edition.

8) ~~CABO One & Two Family Dwelling Code, 1992 Edition, 1993 and 1994 Revisions Edition including Appendices~~ International Residential Code, Currently Adopted Edition.

9) Standard for Floodplain Management, 1994 Edition.

10) International Energy Conservation Code, Currently Adopted Edition.

Also in accordance with the Charter, Chapter 34, Ingleside City Code designates the Board of Adjustment as the appellate body for matters arising under the ~~Standard~~ International Fire ~~Prevention~~ Code, ~~1994 Edition include Appendices~~ Currently Adopted Edition.

Section 2-81 Ingleside City Code provides that the Board of Adjustment shall adopt rules, consistent with Section 2-81 to govern proceedings before it under all of the aforesaid codes with the exception of procedures dictated by the Standard Unsafe Building Abatement Code, which procedures, to the extent in conflict with the procedures set forth in Section 2-81, and the procedures adopted by the Board, will prevail.

Section 10.06 of the Charter provides that the Board of Adjustment shall have the power to make rules, regulations and by-laws for its own government which shall be subject to approval by the City Council. Section 2-81, Ingleside City Code, provides that the Board shall adopt rules for the conduct of its affairs. These rules are adopted in accordance with the authority granted by the Charter and in accordance with the dictates of Section 2-81, of the Ingleside City Code. These rules are intended to be consistent with and to supplement the rules established at, and shall, to the extent of conflict, if any, with the rules established under Section 2-81, of the Ingleside City Code, be inferior thereto. These rules were promulgated by the Board of Adjustment. These rules were approved by the City Council of the City of Ingleside by motion made, seconded and passed on the 27TH day of February, 1996.

RULE 1. Meetings of the Board

Rule 1.1. Meetings of the Board of Adjustment shall be held on the second Monday of even numbered months or at the call of the Chairman, who will designate the time and place of such meeting and at such other times and/or places as the Board may determine.

Rule 1.2. Hearings shall be held by the Board of Adjustment in the City Council chambers of the City Hall Building in the City of Ingleside, unless there is designated another place for a particular meeting to be held.

Rule 1.3. A Quorum for Hearing by the Board shall consist of four {4) members.

RULE 2. Application for Relief

Rule 2.1. Each application to the Board of Adjustment, whether an Appeal from an Order, requirement, decision or determination made by an administrative officer of the City or for a special exception or for a variance, shall adhere to the following requirements:

a. All applications shall be made on City prescribed and promulgated forms.

b. All information called for by the prescribed forms shall be furnished by applicant in legible fashion in the manner prescribed by the application form. In addition to all other information required by said forms, or as part of said information, the applicant shall provide the relevant, attach a copy of the decision appealed from if said decision be in writing, and if not, shall describe in detail the decision and date of the decision from which appeal is taken and shall further state the relief requested, the reasons justifying the relief requested, and the reasons why the decision is in error if error is alleged.

c. Each application shall be filed with the administrative officer of the City whose order, requirement, decision or determination is being appealed and with the Board. Filing with the City Secretary, City Manager or City Manager's designee constitutes filing with the Board.

d. Such application shall be filed within fifteen (15) days from the date of the order, requirement, decision or determination being appealed. However, with respect to special exceptions and variances, if no order, requirement, decision or determination of a City Administrative Official has previously been obtained concerning the matter with respect

to which a variance or special exception is sought, from which order, requirement, decision or determination appeal could have been taken to the Board of Adjustment, the application of the applicant to the Board of Adjustment shall be filed at any time not beyond any applicable statute of limitations, or beyond any time otherwise prohibited by law.

e. The Board of Adjustment can, for good cause shown, vary or modify time limits and other procedural rules and regulations hereinabove stated with respect to the filing of applications in order to assure substantial justice.

RULE 3. The Docket and Calendar

Rule 3.1. Each application timely filed, in proper form, with the required data, shall be numbered serially and docketed, and shall be placed upon the calendar of the Board by the Secretary of the Board. The docket numbers shall begin anew on January 1st of each year and shall be hyphenated with the number of the year in which the application is filed.

Rule 3.2. Applications shall be heard in the order in which they appear on the calendar, except that an application may be advanced for hearing by order of the Board upon good cause shown. Where all applications cannot be disposed of on the day set, the Board may adjourn from day to day.

RULE 4. Hearinqs

Rule 4.1. Hearings shall be open to the public.

Rule 4.2. The Board shall give no less than ten (10) days' written notice of hearing to the parties in interest.

Rule 4.3. The applicant may appear in his own behalf or be represented by an agent or an attorney at said hearing. In the absence of any personal appearance by or on behalf of an applicant, the Board will proceed to dispose of the matter on the record and with the parties before it, and the applicant may be deemed by the Board to have waived his right to an administrative hearing on the matters at issue.

Rule 4.4. At a hearing, the order of proceeding shall be as follows:

a. Case for applicant.

b. Where appropriate, case for the Administrative Officer or other interested City Official.

c. Where appropriate, the case for other interested property owners.

d. Applicant's rebuttal.

e. The Board has discretion to allow additional rebuttal and to vary the order of proceedings.

Rule 4.5. All parties:

a . Shall have the right to submit briefs, summaries and physical evidence, including written and documentary evidence.

b . Shall have the right of cross examination.

Rule 4.6. Any member of the Board shall have the power to administer oaths and affirmations and to certify official acts. Oral evidence may be taken only on oath or affirmation. Hearings shall not be requiredto be conducted in accordance with technical rules relatingto evidenceand testimony. Relevant evidence may be admitted if it is of a type on which reasonablepersons are accustomed torely inthe conduct ofserious affairs, regardless of theexistence ofany common lawor statutory rulewhich mightmake improperthe admissionofsuch evidenceover objection incourts of law. Irrelevant, immaterial, or unduly repetitious evidence maybe excluded.

Rule 4.7. BoardMembers may ask questionsof witnesses to clarify anymatter.

Rule 4.8. The Boardmay inspectany buildingstructure or premise involvedin an appealbefore, during the courseof, or after a hearing, provided thefollowing arecomplied with:

(1) Notice ofsuchinspection isgivento theparties prior tothemaking oftheinspection;

(2) The parties are allowed to be present during the inspection.

Rule4.9.

a. Any partymay requestacontinuance onorbefore the date setforhearing. A ruling onthe request shall be made bythe Chairman, which shall be final. However, as to a second continuance requested by a party, if a Board Memberobjects to thecontinuance, themattershallbe submitted tothe Board for a voteandtheconcurrence of four(4)membersofthe Boardshall berequired togrant a continuance.

b. If a continuance is granted, the matter continued shall bereset forhearing.

RULE 5. Final Disposition

Rule 5.1. The vote of each member present upon the making of any decision of the Board shall be recordedwith the decision. Unless otherwise directed by theBoard, no other writing shallbe required to evidence said decision or to make it effective other than the recordthereof notedin the minutesof the Board. All Board decisions shall bemade and announced inopen public meeting. TheBoard may, but isnot required, tomakewritten decisions. At theopen public meeting where it orally announces its decision, if it desires tomake a written decision, it shall alsoannounce that itwill reduceitsdecision towriting. Any written decision must be signed by all concurring members. Any decision not reduced to writing shall be deemed given, for purposes of appeal from the Board's decision, when orally announced in open public meeting, and if the decision is reduced to writing, then it shall be deemed given for such purposes when written notice of the decision is given to the appellant.

Rule 5.2. The Board shall provide a copy to the parties in interest of any written decision it makes.

Rule 5.3. With permission of the City Manager or his designee, any applicant may withdraw his application at any time prior to its determination by the Board of Adjustment.

Rule 5.4. If an application is granted by the Board, upon it becoming final, all permits necessary to effectuate the decision of the Board will be issued by the appropriate city officials.

RULE 6. Rehearings and Additional Applications

Rule 6.1. Rehearing of any decision of the Board of Adjustment shall only be had on written application, by the aggrieved party, for good cause shown, submitted within ten (10) days after the decision of the Board, and upon Motion made by a Board member and carried by not less than three (3) concurring votes.

Rule 6.2. If a rehearing is granted, a new date for hearing shall be set.

RULE 7. Precedents

No action of the Board shall set a precedent. Each case shall be decided upon its merits and upon the circumstances attendant thereto.

RULE 8. Officers

Rule 8.1. The Board shall elect a Chairman and Vice Chairman at its first meeting after appointment.

Rule 8.2. The Chairman shall preside at all meetings and hearings of the Board. In the event of the absence or disability of the Chairman, the Vice Chairman shall preside.

Rule 8.3. The Chairman, subject to these rules, shall decide all points of procedure, unless otherwise directed by a majority of the Board in session at the time.

Rule 8.4. The Chairman may designate members of the Board to make personal inspections when necessary from time to time and, unless directed by a majority of the Board, shall appoint such committees as may be found necessary.

Rule 8.5. The Chairman shall report at each meeting all official transactions that have not otherwise come to the attention of the Board.

Rule 8.6. The Chairman shall, subject to these rules and further instructions from the Board, transact the official business of the Board and supervise the work of the Secretary of the Board.

Rule 8.7. The Secretary shall be such person as may be designated by the City Manager.

Rule 8.8. The Secretary, subject to the provisions of the zoning ordinance, these rules, and the direction of the Board and its Chairman, shall conduct all correspondence of the Board; send out all notices required by these rules and the orders of the Board; shall attend all meetings of the Board and all hearings; shall scrutinize all applications to see that these rules are complied with; shall keep the dockets and minutes of the Board's proceedings; shall compile all

required records; shall maintain all the necessary files and indexes and generally supervise all clerical work of the Board.

Rule 8.9. The Secretary shall, upon receiving any application, notify any property owner or other person required to be notified.

Rule 8.10. Upon receiving any application, the City Manager or the City Manager's designee shall make a personal inspection of the premises, see that all maps and plats are properly prepared, and be prepared to advise the Board on the physical conditions of the property affected by such application.

Rule 8.11. The City Manager or the City Manager's designee shall secure from the applicant such additional information and data as may be required to fully advise the Board with reference to the application, whether such information and data is called for by the official forms or not. Any failure or refusal on the part of the applicant to furnish such additional information or data shall be ground for the dismissal of the application by the Board.

RULE 9. Minute Book

The Secretary shall be provided with a minute book which shall be well bound and in which book shall be recorded the identifying information and case number, decision, together with the vote of each member of the Board, those absent being so marked, together with all actions of the Board.

RULE 10. Resolutions

Every resolution not otherwise provided for shall require a majority vote of the members present at a legally constituted meeting.

RULE 11. Advice

No informal request for advice, or moot questions, will be considered by the Board. No advice, opinion, or information given by any Board member or the Secretary of the Board, or any other official or employee of the City shall be binding on the Board. Because of the annoyance caused by individuals appealing personally to members of the Board, it is declared to be the official policy of the Board to deprecate any such personal appeals. Members will not consider informal requests for advice and shall not consider any matters which are or should be presented to the Board at any other time or place than during an officially called meeting of the Board or as otherwise specifically provided in these rules.

RULE 12. Notices

Where notice is required or allowed to be given under Section 4.2 of these rules, concerning notice of hearing, or Section 5.2, concerning notice of Board decisions, the notice shall comply with the following requirements:

(1) Notice shall be written;

(2) Notice shall be given by personal delivery or mailed;

(3) If mailed, the notice shall be enclosed in an envelope properly address, postage prepaid, deposited in an official depository of the United States mail service, and shall be mailed certified mail, return receipt requested;

(4) Notice shall be deemed to have been given: If personally delivered, then on the date of delivery; and if mailed, then on the earlier of the date of actual receipt as per the certified mail receipt or the third day after deposit into the official United States mail service depository. With respect to mailed notice, actual receipt of the notice is not required for notice to be effective.

RULE 13. Amendments

These rules may be amended or modified by an affirmative vote of not less than four (4) members of the Board, subject to council approval.