

**BY-LAWS**  
**MONROE COUNTY BOARD OF ADJUSTMENT**

In compliance with Section 358A.10 of the Iowa Code and Section 11, Subd. 2 of the Monroe County Zoning Ordinance, which states that the Board of Adjustment will adopt rules to carry out the provisions of the zoning ordinance the following rules of procedure are hereby adopted by the Monroe County Board of Adjustment.

**Section 1: Officers.** The Board of Supervisors shall select from the Board of Adjustment members a chairman, who shall perform the usual duties pertaining to such office.

- (a) **Selection:** At the first regular meeting in January, the Board of Supervisors will select the chairman from the Board of Adjustment members. The chairman is eligible for re-appointment.
- (b) **Tenure:** The chairman shall take office immediately following selection and shall hold office for a term of one year or until a successor is selected and assumes office.
- (c) **Duties:** The chairman shall preside at all meetings and hearings of the Board, shall decide all points of order or procedure and shall appoint any committees that may be found necessary. In the absence of the chairman, another member will be selected by the board members in order to assume the duties of the chairman.
- (d) **Secretary:** The duties of the Secretary will be assumed by the County zoning administrator or assignee. The secretary shall conduct all official correspondence subject to these rules at the direction of the Board, shall issue/publish all notices required by these rules of procedure, keep minutes of the Board's proceedings and maintain a file on each case that comes before the Board. For all appeals and applications, the Secretary shall issue the proper forms; see that information, maps, and plats are compiled and ready for the Board's review; notify any property owner and other known interested parties by mail of the time and place of the hearing; and any other duties determined by the Board.

**Section 2: Meetings:** The annual meeting of the Board will take place at the first regular meeting in January of each year. Regular meetings of the Board of Adjustment shall be held at the call of the Chairman, unless no cases are pending in which case no meeting shall be held. The Secretary shall give each member of the Board at least seven (7) days notice of such meeting by mail.

- (a) **Special Meetings:** ~~Special meetings may be called by the Chairman, or at the request of three members of the Board of Adjustment.~~ Notice of the special meeting shall be given by the Secretary to the members of the Board at least 48 hours prior to such meeting and shall state the purpose and time of the meeting.

- (b) **Quorum:** A quorum of the Board shall consist of three members.
- (c) **Public:** All regular, special, and subcommittee meetings, public hearings, records and accounts shall be open to the public.
- (d) **Order of Business:** The Secretary shall prepare an agenda for each meeting. The order of business shall be as follows:
- (1) Roll Call
  - (2) Approval of minutes of previous meeting
  - (3) Communications
  - (4) Report of Committees, if any
  - (5) Unfinished Business, if any
  - (6) New Business
  - (7) Adjournment
- (e) **Voting:** The concurring vote of a majority of the members of the Board is required to reach a decision. Voting will be by roll call, will be recorded by yeas and nays and will be so reflected in the minutes. All members of the Board, including the Chairman are required to cast a vote for each motion. Minutes will show members absent for each vote. A member may abstain if he/she feels there is a conflict of interest, particularly if the conflict is of a financial nature. If a member elects to abstain from voting, he/she is required to state the reason for his/her abstention at the time of voting.
- (f) **Unfinished Business:** Where all appeals or applications cannot be disposed of on the day set (due to length of meeting or extenuating circumstances), the Board may recess from day-to-day or until the next regular meeting, as the Board may decide.
- (g) **Board Action:** The board may not vote on an appeal or application until all required information has been obtained and until the hearing has been conducted.
- (h) **Parliamentary Procedure:** Roberts Rules of Order, Revised will govern the Board of Adjustment meetings.
- (i) **Cases to Be Decided:** The Board shall hear only those appeals and applications as stated in the applicable Sections of the Monroe County zoning ordinance.

**Section 3: Procedure for Hearing Cases:** The following rules will apply to all appeals or applications before the Board.

- (a) Appeals to the Board may be taken by any person, group, or by any officer or department of the County affected by any decision of the Zoning Administrator and by applicants for a special exception or variance.
- (b) The Zoning Administrator shall tell the applicant or interested party why the zoning or building permit was denied or why the application is necessary. He/she shall inform the applicant or interested party of the right to apply or appeal to the Board and that it be made within 30 days. Such appeal shall be filed with the Zoning Administrator on the forms provided by the Board of Adjustment. The Zoning Administrator will transmit the completed appeal form along with all papers constituting the record upon which the Board shall act.
- (c) The applicant shall complete the required forms, providing all information requested and any additional information as requested by the Zoning Administrator.
- (d) The Secretary of the Board shall reject any such application or appeal which is not filed within 30 days of the Zoning Administrator's decision. Also, the Secretary shall reject any such application or appeal unless same are made on prescribed forms properly filled out, with all required data attached.
- (e) An application or appeal filed according to the above procedure shall be assigned a hearing date within 5 working days from the date filed. Applications or appeals will be assigned in the order in which they are received. Cases filed less than (15) days prior to the regular meeting will automatically be set for hearing on the subsequent regular meeting day.
- (f) The Secretary of the Board shall notify the parties of interest (Property owners of record within 500 feet of the applicant's lot lines) by mail of the time, place, and purpose of the public meeting.
- (g) Hearings shall be held by the Board of Adjustment at the Monroe County Courthouse and be open to the public.
- (h) At the time of the public hearing, the applicant may appear in his/her own behalf or be represented by agent or counsel. In the absence of any personal appearance on behalf of the applicant, the Board will proceed to dispose of the matter on the forms and information provided before. The order of the hearing shall be as follows:

- (1) Zoning Administrators introduction of the case
  - (2) The applicant's or appellants side of the case
  - (3) Zoning Administrators side of the case
  - (4) Interested property owners opinions
  - (5) Applicant's rebuttal
- (i) After the hearing, the Board shall deliberate the case. The Board may ask the Board's attorney for comments.
  - (j) The applicant or appellant may withdraw his/her application or appeal at any time prior to the decision by the Board of Adjustment.
  - (k) Final decision of any application or appeal shall be made in the form of a resolution by anyone on the Board of Adjustment. The resolution may affirm, modify, or reverse the refusal of a permit by the decision of the Zoning Administrator. In the case of an application for variance or conditional use permit, the resolution shall set forth that the application is granted or denied and said resolution shall specifically set forth what variances or special uses are permitted and what conditions, if any, shall be complied with.
  - (l) Within 15 days after the hearing, the Board shall notify the parties of interest of its decision.
  - (m) A rehearing of any decision of the Board of Adjustment may be made if the following occur: the motion to reconsider is made by a member of the Board and carried by not less than (3) affirmative votes; new evidence is submitted which could not reasonably have been presented at the original meeting.

**Section 4: Records.** The Secretary shall keep books showing the status of all cases and minutes as part of the records of the Board of Adjustment. In addition, the Secretary shall keep a file of all cases including forms and additional information as part of the legal records. All records of the Board shall be public record.

Section 5 Amendments. A majority vote of all the members of the Board shall be necessary to amend these procedures. Such proposed amendments shall be presented in writing at the regular meeting of the Board of Adjustment.

Approved By: *Larry K Myers* Chairman  
Honore County Board of Supervisors  
Approved By: *Herbert Butts* Chairman  
Board of Adjustment

*John S. McClain* Member  
*Michael P. Beary* Member  
*James M. Dalton*  
*William D. Gates*  
*Art L...*  
*Bill Terrell*

Witness:  
*Catherine M. Butts* Board  
Honore County Auditor  
September 5, 1990

10-1-90  
(Date)  
Seal Affixed