

DRAFT

BY-LAWS OF THE BOURBON COUNTY, KY JOINT BOARD OF ADJUSTMENT

ARTICLE I

OBJECTIVES

The objective and purposes of the Bourbon County Joint Board of Adjustment are those set forth in Kentucky Revised Statutes Chapter 100 and amendments and supplements there to and those powers and duties delegated to the Board of Adjustments by the participating jurisdictions of the City of North Middletown, City of Paris, and the Bourbon County Fiscal Court in accordance with the above mentioned enabling law and the zoning ordinances of the City of North Middletown, City of Paris, and the unincorporated Bourbon County.

ARTICLE II

OFFICERS AND THEIR DUTIES

SECTION 1

The officers of the Joint Board of Adjustment shall consist of a Chair, and a Vice-Chair.

SECTION 2

The Chair shall be the presiding officer at all meetings and hearings of the Joint Board of Adjustment and shall perform duties as described by proper parliamentary procedure.

SECTION 3

Under parliamentary procedure, the Chair's general duties: to open and call the meeting to order; to announce the business to be conducted; to recognize members entitled to the floor; to state and put to vote all questions which are regularly moved or necessarily arise in the course of proceedings and to announce the result of the vote; to vote only to break a tie vote and to refrain from debate on any question to be voted on; to protect the board from unnecessary or frivolous motions by not recognizing them; to require order and sincerity in meetings, to inform the group present to a point of order or a practice pertinent to pending business; and to authenticate, by signature when necessary, all acts, orders and proceedings of the board.

SECTION 4

The Chair shall conduct business only for the benefit of the Board involved and shall reflect no personal prejudice in any matter.

SECTION 5

The Vice-Chair shall assist the Chair in any way possible subject to the Chair's request. Upon the absence of the Chair, the Vice-Chair shall automatically become the presiding officer of the Board.

SECTION 6

The duties of the Secretary are as follows: to keep records and minutes of each meeting or hearing of the Board; to keep a roll of the members and to call this roll when required; to notify officers and committees

DRAFT

of their appointment and to furnish committees with all papers referred to them; to sign with the Chair all orders on the treasury authorized by the Board, unless otherwise specified by the Chair; to record the number of votes for and against each questions put to vote; to indicate any absences or disqualifications from voting when a question is put to vote, and other duties which may be assigned.

ARTICLE III

NOMINATION AND ELECTION OF OFFICERS

SECTION 1

Nominations for officers shall be made at the annual organization meeting which shall be held at the first meeting in each year. All officers shall be eligible for re-election at the term expiration.

SECTION 2

Election of officers shall take place immediately following nominations. Voting shall take place in one of the following ways; voice, show of hands, rising, balloting, or roll call.

SECTION 3

A candidate receiving a majority vote of the entire membership of the Board of Adjustment shall be declared elected and shall serve for a term of one (1) year or until a successor shall take office.

SECTION 4

Vacancies in unexpired terms of office shall be filled immediately by regular election procedures.

ARTICLE IV

MEMBERSHIP

SECTION 1

Vacancies due to resignation, removal or termination of membership, shall be filled within sixty (60) days by the appropriate appointing authority. After such vacancy occurs the Board Chair shall immediately give the appropriate appointing authority written notice that the vacancy exists. The appointing authority shall have sixty (60) days to fill the vacancy. If the appointing authority fails to do so, the Board shall fill the vacancy, using the same procedure it uses to elect its officers as set out in Article III. When a vacancy occurs other than through expiration of the term of membership, it shall be filled for the remainder of that term.

ARTICLE V

MEETINGS

SECTION 1

A quorum is a simple majority of the total membership of the Joint Board of Adjustment as established by regulation or agreement.

DRAFT

SECTION 2

To transact any official business, a simple majority vote of the total membership shall be necessary.

SECTION 3

Regular meeting shall be conducted on the 3rd Tuesday of each month at 5:30 p.m. All meetings shall be conducted at the call of the Chair. The notice of such a meeting shall specify the purposes of such meeting and no other business may be considered except by unanimous consent of the Board. The Administrator shall notify all members of the Board by oral or written notice not less than seven (7) days in advance of such special meeting. This notice shall contain the date, time, place, and subject of discussion.

SECTION 4

All meetings and hearings at which official action is taken shall be open to the general public.

ARTICLE VI

ORDER OF BUSINESS

SECTION 1

The order of business at regular meetings shall be:

- (a) Roll Call
- (b) Reading of Minutes of Previous Meeting
- (c) Special Orders
- (d) Old and Unfinished Business
- (e) New Business
- (f) Communication and Bills
- (g) Reports of Officers and Staff
- (h) Adjournment

ARTICLE VII

TRANSACTION OF BUSINESS

SECTION 1

Any member of a Board of Adjustment who has any financial or other personal interest in any question called to vote shall notify the Board of such interest and disqualify oneself from voting on the matter.

SECTION 2

Any member of a Board of Adjustment who fails to notify the Board of a financial or personal interest in a question called to vote, shall have their voting qualifications judged by the Board as to the amount of interest in question and his/her right to vote on it.

SECTION 3

DRAFT

Any member of a Board of Adjustment found to have any direct or indirect financial or personal interest in a question called to vote shall not be considered in the quorum count prior to voting.

ARTICLE VIII

EMPLOYEES

SECTION 1

The Board may employ a clerk to assist the secretary in the performance of assigned duties and perform others as may be assigned by the Chair.

SECTION 2

The Board may employ staff and contract for technical assistance to aid in the work of the Board. Such employment shall be approved by a simple majority of the total required membership.

ARTICLE IX

HEARINGS

SECTION 1

In addition to those required by law, the Board may hold public hearings at its discretion when it is apparent that such hearings will be in the public interest.

SECTION 2

Notice of such hearings shall be given to the Board and public according to law. For information on the Board’s notice requirements, reference should be made to the notice provisions of KRS Chapters 424 and 100 and to local ordinance. Notice shall be published at least once but may be published two or more times, provided one publication occurs not less than seven (7) days nor more than twenty-one (21) days before the occurrence of the hearing.

SECTION 3

The matter before the Board shall be presented by the Chair or the Board staff. Parties in interest, proponents and opponents, shall be afforded reasonable opportunity to address the Board as long as they comply with the procedures described below:

1. The staff of the Board will present its reports concerning the application under review (30 minutes).
2. The applicant shall present their case, including an opening statement and the testimony of any witnesses (30 minutes).
3. Any objectors may present their case, including an opening statement and the testimony of any witnesses (30 minutes).
4. Any proponents or objectors may provide public comment. When the number of speakers warrants, the Chair will typically allow each speaker a maximum of three (3) minutes.
5. The objectors may present a closing statement (5 minutes).
6. The applicant may present a closing statement (5 minutes).
7. The Board staff may present rebuttal testimony and a closing statement (5 minutes).

DRAFT

All interested parties who expect to present evidence, provide comments, or cross-examine witnesses shall notify the Board Administrator prior to the hearing.

SECTION 4

Those matters brought before the Board shall be submitted to compliance with Appendix A.

SECTION 5

A record shall be kept of those speaking before the Board by the Secretary.

SECTION 6

The Board of Adjustment may appoint one or more of its members to act as a hearing examiner or examiners in accordance with KRS 100.

ARTICLE X

CONFLICT OF INTEREST

SECTION 1. Disqualification. A Board member having a direct, or indirect financial interest in the outcome of any question before the Board shall not participate in the discussion on the matter. That member shall not be counted for purposes of determining the existence of a quorum necessary to hear and act on that matter.

SECTION 2. Definition. Direct or indirect financial interest shall include financial interest of the members of the Board member's family in direct line (grandparents, children, siblings, etc.) and siblings of parents. Examples of Board actions that constitute direct or indirect financial interest include but are not limited to:

- a. A development proposal for a property in which a Board member has financial interest.
- b. A policy decision which will substantially affect the development potential of a property in which a Commissioner has financial interest.
- c. A proposal or policy which will result in known financial benefit (e.g., through contract or employment) from related activities.
- d. A proposal that would provide a direct financial competition with a development in which the Board member has financial interest.
- e. A proposal that would substantially impact the value of a nearby property in which the Commissioner has a financial interest.

These examples provide guidelines for conflict of interest determination.

SECTION 3. Procedure. A Board member with a potential conflict of interest shall disclose the nature of that interest to the Chair at such time as he, or she becomes aware of it. The Chair shall state for the record the disqualifications of the member at the beginning of the discussion or hearing on the matter in which the potential conflict arose.

Any person during the course of a Board meeting can raise the issue of a Board members conflict of interest. At the time the conflict of interest is asserted, the Chair shall suspend the discussion, or hearing until the question of conflict is resolved. If the Board member acknowledges a conflict, he or she shall

DRAFT

be disqualified under Section 1. Upon the Board member’s disqualification, the meeting shall continue if a quorum is present. If there is not quorum, the discussion or hearing shall be continued until such time as quorum is present.

If the Commissioner denies the existence of a conflict, the Chair may rule on the question and upon ruling, take appropriate action under these bylaws. In the event there is insufficient information upon which the Chair may rule, he or she shall conduct an evidentiary hearing before the Board. At the close of the evidence the Board shall vote either “Yes, there is a conflict” or “No, there is no conflict” under these bylaws. Upon completion of the vote the Chair shall take appropriate action. After resolution of the assertion of conflict of interest, the discussion or hearing shall be resumed.

SECTION 4. Non-financial Conflict of Interest. A Board member shall also be disqualified, or shall abstain, under the same rules as in Sections 1 and 3, for cause defined as the apparent inability to render an impartial decision. In no event shall a Board member speak for, or against a matter before the Board as a representative of any organization other than the Board of Adjustment.

SECTION 5. Occurrence of Conflict of Interest After Board Action. This section applies when the issue of conflict of interest is raised by any person after the Board has taken final action on a matter. The Chair shall determine whether the assertion of conflict of interest, if true, would not have affected the outcome, the Chair shall report the assertion of conflict and his, or her determination to the Commission. The Commission on motion and second with majority vote may override the Chair’s finding and set the matter for evidentiary hearing.

If it appears that the conflict, if true, would have affected the outcome, the Chair shall report the assertion of conflict to the Board and schedule a hearing before the Board on the question of whether the conflict of interest existed at the time of the prior action and whether it affected the prior Board action. If the Board, after evidentiary hearing, finds that the conflict did affect the prior Board action the record of that determination shall be forwarded to the appropriate legislative body for inclusion in the record of the prior action of the Board.

SECTION 6. Guidance from the American Planning Association (APA). The Chair and the Board shall seek guidance from the APA’s “Ethical Principles in Planning,” adopted in May 1992, in determining the existence of conflicts of interest. See Appendix B below.

ARTICLE XI

AMENDMENTS

SECTION 1

These By-Laws may be amended by a vote of a simple majority of the total membership of the Board.

DRAFT

ADOPTED BY:

CHAIR (Print Name)

CHAIR (Signature)

SECRETARY OR ADMINISTRATOR (Print Name)

SECRETARY OR ADMINISTRATOR (Signature)

DATE

APPENDIX A

PROCEDURES FOR SUBMISSION OF APPLICATIONS TO THE JOINT BOARD OF ADJUSTMENT

Submission of Applications, Plats and Fees		Bourbon County Joint Planning Office 127 Paris Municipal Center 525 High Street, Paris, KY 40361
Regular Meeting of the Joint Board of Adjustment	Tuesday of the Month 5:30 p.m.	City Commission Chambers Paris Municipal Center 525 High Street, Paris, KY 40361

DRAFT

APPENDIX B

The below principles are recommended by the American Planning Association (APA), 205 N. Michigan Ave., Suite 1200, Chicago, IL 60601, for all participants in the planning process, including decision makers, and is found at the APA website: <http://www.planning.org/ethics/ethicalprinciples.htm>

Planning Process participants continuously strive to achieve high standards of integrity and proficiency so that public respect for the planning process will be maintained.

Planning process participants should:

Exercise fair, honest and independent judgement in their roles as decision makers and advisors;

Make public disclosure of all “personal interests” they may have regarding any decision to be made in the planning process in which they serve, or are requested to serve, as advisor or decision maker.

Define “personal interest” broadly to include any actual or potential benefits or advantages that they, a spouse, family member or person living in their household might directly or indirectly obtain from a planning decision;

Abstain completely from direct or indirect participation as an advisor or decision maker in any matter in which they have a personal interest, and leave any chamber in which such a matter is under deliberation, unless their personal interest has been made a matter of public record; their employer, if any, has given approval; and the public official, public agency or court with jurisdiction to rule on ethics matters has expressly authorized their participation;

Seek no gifts or favors, nor offer any, under circumstances in which it might reasonably be inferred that the gifts or favors were intended or expected to influence a participant’s objectivity as an advisor or decision maker in the planning process;

Not participate as an advisor or decision maker on any plan or project in which they have previously participated as an advocate;

Serve as advocates only when the client’s objectives are legal and consistent with the public interest.

Not participate as an advocate on any aspect of a plan or program on which they have previously served as advisor or decision maker unless their role as advocate is authorized by applicable law, agency regulation, or ruling or an ethics officer or agency; such participation as an advocate should be allowed only after prior disclosure to, and approval by, their affected client or employer; under no circumstance should participation commence earlier than one year following termination of the role as advisor or decision maker;

Not use confidential information acquired in the course of their duties except when required by law, to prevent a clear violation of law or to prevent substantial injury to third persons; provided that disclosure in the latter two situations may not be made until after verification of the facts and issues involved and consultation and other planning process participants to obtain their separate opinions;

Not misrepresent facts or distort information for the purpose of achieving a desired outcome;

DRAFT

Not participate in any matter unless adequately prepared and sufficiently capacitated to render thorough and diligent service;

Respect the rights of all persons and not improperly discriminate against or harass others based on characteristics which are protected under civil rights laws and regulations.