

**BOARD OF ADJUSTMENT  
Of  
TANEY COUNTY MISSOURI**

**-BYLAWS-**

WHEREAS, with a population in excess of 39,000 residents, and over five million visitors per year, Taney County Missouri is a unique and wonderful place nestled in the heart of beautiful Ozark Mountain Country, and

WHEREAS, the fractured and soluble limestone hills, verdant landscapes, and clear lakes and streams which compliment the natural beauty also create an environmental potential for pollution, and

WHEREAS, even through Taney County is one of the fastest growing counties in Missouri, it still has time and space for orderly development when guided by the Taney County Developmental Guidance Code, and

WHEREAS, voters in Taney County have diverse heritage but a mutuality of concern to maintain and enhance the environment, as demonstrated by their support of planning by these percentages during four challenges and referenda, as follows:

1966, 60%  
1980, 54%  
1981, 61%  
1982, 59%

Therefore, BE IT RESOLVED THAT these Bylaws be adopted by the Board of Adjustment of Taney County, Missouri.

**ARTICLE I. NAME.**

- a. The name of this organization shall be the Board of Adjustment of Taney County, Missouri, hereafter referred to as "Board of Adjustment".

## ARTICLE II. AUTHORITY.

- a. The Board of Adjustment created pursuant to law, including but not limited to Section 64.870 and 64.840, RSMo., and the Taney County Development Guidance Code, incorporated herein by reference as if fully set forth herein.

## ARTICLE III. MEMBERSHIP.

- a. The members of the Board of Adjustment shall be as defined in State Statute, including but not limited to Section 64.870, RSMo.

## ARTICLE IV. COMPENSATION.

- a. Members of the Board shall receive compensation and may be reimbursed for expenses incurred for attendance per State Statute.

## ARTICLE V. OFFICERS.

- a. The Board shall, at its regular monthly meeting in January, elect by majority of its members its own Chairperson and Vice Chairperson who shall serve for one year, or until their replacements are elected.

## ARTICLE VI. ADMINISTRATION.

- a. The Administrator and staff of the Taney County Planning Commission shall serve the Board of Adjustment to provide such services as it may require. Minutes shall be kept of all proceedings and official actions taken by the Board, and these minutes shall be public record except where authorized by law to be closed records.
- b. The person acting as Planning and Zoning Administrator for Taney County (hereinafter referred to as the Administrator) shall act as Secretary for the Board of Adjustment and is hereby authorized and directed to publish, deliver, mail, and sign for all behalf of the Board any notices required.
- c. The Secretary shall prepare an agenda for each meeting and the order of business therein shall be generally as follows subject to amendment at the meeting:

1. Establishment of Quorum
2. Explanation of meeting procedures
3. Presentation of exhibits
4. Governing Statutes
5. Public Hearing
6. Old and New Business
7. Approval of Minutes
8. Adjournment

#### ARTICLE VII. PARLIAMENTARY PROCEDURE.

- a. Robert's Rules of Order as revised shall be followed for all parliamentary procedures unless otherwise provided by these by-laws, the Taney County Developmental Guidance Code, or State Statute.

#### ARTICLE VIII. ADVISORY PERSONNEL.

- a. The Board of Adjustment may be served by legal counsel and the Board of Adjustment may request to contract with other consultants for such services as it may require.

#### ARTICLE IX. MEETINGS.

- a. Three members in attendance at any meeting shall constitute a quorum of the Board of Adjustment. If at any meeting of the Board of Adjustment a quorum shall fail to be present, the Chairperson or Acting Chairperson shall adjourn such meeting to another date in order to afford a full hearing upon each appeal of application pending.

#### ARTICLE X. OFFICIAL YEAR.

- a. The calendar year shall be the official year for all transactions.

#### ARTICLE XI. AMENDMENTS.

- a. These bylaws have been adopted by the Board of Adjustment, and may be amended by a three-fifths or greater vote of the entire membership of the Board of Adjustment at any meeting where there is a quorum.



## ARTICLE XII. GENDER.

- a. When any gender form is used in these Bylaws, it shall be known to include all other gender forms as applicable.

## ARTICLE XIII. VOTING.

- a. Each Board of Adjustment member shall be entitled to one vote on all issues presented to the Board of Adjustment. It shall require the concurring vote of at least three (3) members of the Board of Adjustment to constitute a decision or the Board of Adjustment.
- b. If at hearing before the Board of Adjustment there is present only three (3) members of the Board of Adjustment, then in such event, the applicant of the proceeding shall have a one-time option to continue the hearing until the next regularly scheduled Board of Adjustment meeting at which there exists a quorum of members of the Board of Adjustment and the matter shall be heard at that meeting without another option pursuant to this paragraph to continue the hearing to a later date; this option shall be requested prior to any evidence being received by the Board of Adjustment for the particular project or application.

## ARTICLE XIV. HEARING PROCEDURE.

- a. Each case coming before the Board shall be generally heard in the following order and pursuant to the following procedures subject to amendment as necessary:
  - 1. The presentation of the Planning and Zoning Administrator and/or any other public agency, followed by cross-examination of their witness(es).
  - 2. The presentation of the applicant, followed by cross-examination of the applicants witness(es).
  - 3. The presentation of parties opposed to the applicant's position followed by cross-examination of their witness(es).
  - 4. The presentation of rebuttal testimony by the applicant, followed by cross-examination of rebuttal witnesses. Rebuttal testimony shall be limited to new matters made necessary in explanation of matters raised following the applicant's original presentation or in answer to matters so raised, and rebuttal testimony shall not be for the purpose

of merely re-submitted or restating matters previously submitted by applicant in his original presentation.

5. Arguments by parties shall be in the same order in which presentations are made. Such arguments will be limited to five (5) minutes per side unless special permission shall be given by the Board for additional time. The applicant shall be given three (3) additional minutes for rebuttal argument if desired.
  6. Each person who is not a party and who wants to address the Board shall so indicate by listing their name on a form provided for the same and shall also approach the podium or other designated area, give his/her name and address for the record, and unless further time is granted by the Board, shall limit his/her address to five (5) minutes. All remarks should be addressed to the Board as a body and not to any member thereof, nor to other persons in attendance at the meeting. No person, other than the Board and the person having the floor, shall be permitted to enter into any discussion, either directly or through a member of the Board, without the permission of the Chairperson. No question shall be asked of a member of the Board except through the Chairperson unless the Chairperson allows the same.
- b. All witnesses shall testify under oath or affirmation.
  - c. Any witness may be cross-examined by any member of the Board, the attorney for the Board, or any other party (or his/her attorney at law) appearing at such hearing upon request, but unless such request is made at or prior to time for such cross-examination, then cross-examination shall be deemed to be waived. Right of cross-examination will be subject to reasonable restrictions by the Chairperson or Acting Chairperson as to the manner, time and method of such cross-examination, and shall be limited to five (5) minutes unless additional time is granted by the Chairperson or Acting Chairperson.
  - d. Following presentation of all cases and requests at a meeting, the public session of the Board shall be declared at an end by the Chairperson so the Board may make its decisions.
  - e. The Secretary shall be required to serve the Board's findings of fact and conclusions of law upon all interested parties by regular mail within five (5) working days from the date of his/her notification of the Board's decisions. The Secretary shall post such finding of fact and conclusions of law in the office of the Board and/or Administrator at the expiration of the five (5) day period.



#### ARTICLE XV. PREPARATION BY INTERESTED PARTIES AND APPLICANTS.

- a. Any party to any proceeding before the Board shall, insofar as it may be possible, prepare and submit in advance for hearing six (6) copies of any exhibits proposed to be used in the proceeding, which said submission shall be made to the Board by filing the same with the office of the Planning and Zoning Administrator of Taney County. The applicant and other proponents shall submit exhibits at least ten (10) days in advance of the hearing; the Planning and Zoning Administrator, other governmental agencies and departments. And opponents of the applicant's request shall submit exhibits at least five (5) days in advance of the hearing. Each exhibit shall be identified as to the party who intends to sponsor the exhibit and shall be consecutively numbered or lettered. All material so submitted shall be deemed a public record and shall be open for inspection and copy (at their own expense) by any person whosoever. Any exhibit not so filed shall be admitted by the Board only upon a clear showing that such filing was not in good faith reasonably possible.
- b. It shall be the burden of the applicant in any case before the Board to present sufficient facts and testimony that an affirmative decision by the Board in favor of applicant will be based upon substantial evidence upon the whole record of proceedings before the Board. Nothing shall prohibit any member of the Board inquiring of any witness or party at any time during the proceedings upon any fact, or matter relating to the proceedings, but it shall not be the duty of the Board to supply any deficiencies or to seek to provide facts in any proceedings.
- c. Upon written request giving the full name, mailing address, and telephone number of any desired witness or witnesses, filed with the Secretary of the Board of Adjustment and directed to the Chairperson of the Board of Adjustment, at least seven (7) days prior to the date set for hearing, any interested person may request the Chairperson to compel the attendance of any witness deemed necessary for a full hearing, and further the Chairperson or Acting Chairperson will compel the attendance of any such witness so requested to be at such hearing for either examination, cross-examination, or both.
- d. No affirmative relief will be granted any applicant or appellant in any case unless the applicant, appellant, or his/her agent or attorney appear in person or by affidavit in writing duly verified which meets the required burden of proof. In any case in which the applicant, appellant or his/her agent or attorney fail to appear either in person or by written verified affidavit, and no interested person appears protesting the granting of such relief, then such



case will be dismissed by the Board without prejudice to the applicant to request another hearing in the time and manner necessary for the first scheduled hearing and upon payment of the required deposit for the sending of notices if, and only if, the applicable period of limitations on bringing such action has not expired as nothing herein shall extend such period of limitations.

#### ARTICLE XVI. APPEALS TO DECISIONS MADE BY THE BOARD.

- a. Any interested party may, in writing and delivered to the Secretary of the Board within seven (7) days of the posting of the Board's decision in the office of the administrator (or the Board), request that the Board reconsider on the record any decision which adversely affects such party. Requests for Reconsideration will be heard at the next regularly scheduled Board of Adjustment meeting. The Board shall not grant a party's Request for Reconsideration if that party did not appear at the original hearing and does not demonstrate that substantial injustice would result as a refusal to grant such Reconsideration request. Granting of the Request for Reconsideration shall act as a nullification of the Board's previous decision.
- b. Any interested party aggrieved by a decision of the Board may request a rehearing. The request for rehearing shall be in writing and within seven (7) days of the posting of the Board's decision in the office of the Secretary of the Board. Rehearing Requests shall be heard at the next regularly scheduled Board of Adjustment meeting. The Board shall not grant such request for rehearing to any party who did not appear at the original hearing and who cannot demonstrate that there is new evidence that was not in existence at the time of the original hearing or was not available to the person making the request because another interested party had prevented the discovery of such evidence and because such evidence could not have been discovered by the party making the request through diligent efforts on his/her part. The decision of the Board to grant such request for rehearing shall act as a nullification of the Board's previous order, and the Board shall direct the Administrator to have the appropriate notices given for the rehearing.

#### ARTICLE XVII. FORMS.

- a. Forms to be used are available in the Planning Office.

#### ARTICLE XVIII. AMENDMENT.

These rules and procedures may be amended, rescinded, supplemented or repealed at any time by a concurring vote of four (4) members of the Board of Adjustment.