

**THE SHORT TERM RENTAL APPEALS BOARD
OF THE METROPOLITAN GOVERNMENT
OF NASHVILLE & DAVIDSON COUNTY**

RULES OF PROCEDURE

1. PURPOSE

The purpose of these rules is to provide for the orderly disposition of the business of the Metropolitan Short Term Rental Appeals Board (Board) by establishing the practice by which that business shall be transacted. In some instances, these rules clarify ambiguous language in the Metropolitan Code of Laws. In other instances, these rules specify the procedure for situations not covered by the Code. All references made in these rules to the “Code” mean the Metropolitan Code of Laws.

2. AUTHORITY

These rules are adopted pursuant to the authority vested to the Board by Metropolitan Code of Laws § 6.28.035.H

3. APPLICATION

(A) Any person who wishes to file an appeal to this Board must do so on a form provided for that purpose by the Department of Codes Administration. Appellants must meet with a designated staff member from the Zoning Division at Metro Codes in order to file an appeal. Merely delivering documents will not constitute the proper filing of an appeal.

(B) Each application will be assigned a number by the Board Secretary and be placed on a docket for hearing in chronological order, unless the Board orders otherwise pursuant to the Code or these rules.

(C) Appellants to the Board shall provide all required information to the staff by the filing deadline. Cases will not be placed on a docket by the Secretary until the required information is provided. A checklist will be provided by the staff to aid in the submittal process.

4. WITHDRAW OR FAILURE TO APPEAR

(A) Any appellant may withdraw their application once, without prejudice, at any time prior to the public hearing on the case. A public hearing is deemed to have begun after any opening remarks requiring evidence have been made by the appellant.

(B) In any case where the appellant fails to appear before the Board, the case will be deferred one meeting. In the event the appellant fails to appear before the Board a second time, the application shall be dismissed for lack of prosecution. The appellant will be eligible to re-apply and shall pay a new filing fee and the case will be re-advertised for the next available docket after dismissal.

(C) All cases shall be advertised for public hearing. Appellants shall send written notices via US Mail to the owners of all properties within 1000 feet of the subject property. Appellants shall place a notice on the property for at least 10 days before the scheduled hearing date.

5. CONFLICT OF INTEREST

(A) Any member of the Board who has direct or indirect interest in any property which is the subject matter of, or directly affected by, a decision of the Board shall be disqualified from participating in the discussion, decision, and/or proceedings of the Board in connection therewith.

(B) Members of the Board shall conduct themselves in accordance with the Standards of Ethical Conduct as defined in the Metropolitan Code § 2.72.010, *et. seq.* Any Board member who may have an interest in the issues in a given case shall publicly state that fact on the record prior to the public hearing so that either party or a member of the Board might object to their further participation in the case.

(C) Ex Parte Contact: no member shall discuss the merits of any pending case with any person having interest in the case prior to the public hearing. Further any interested party wishing to provide written information to the Board prior to the public hearing (including electronic communication) must place such information in the public record through the staff of the Board who will disseminate the information to the Board members.

(D) Submittals: In order to provide information to the board in a timely manner, any documentation that appellants or opponents want the member of the Board to read prior to the public hearing must be received by the staff of the Board no later than five days prior to the public hearing. Any documentation the applicant wishes to provide to the Board after the deadline can be presented to the board members by providing eight copies at the public hearing; however, the Board may elect to defer cases in order to review any materials received after the deadline.

6. PROCEDURE

(A) All Board meetings shall be open to the public pursuant to T.C.A §8-11-101, *et seq.*

(B) Meetings shall be scheduled for once each month each calendar year unless otherwise changed by the Board. In cases where meeting dates conflict with holidays or political elections, the Secretary may re-schedule the meeting to avoid conflict with these dates. Meetings shall be held in the Metro Office Building at 800 2nd Avenue South unless an alternate site is necessary.

(C) The presence of four (4) members of the Board shall constitute a quorum. A quorum must be present to vote on any case.

(D) Pursuant to the Metropolitan Charter § 18.10, the Board, acting by and through its Secretary, may, upon the request of a party, compel the attendance of witnesses and the production of

books, papers, and records pertinent to a case. Parties must request the attendance of witnesses at least five (5) days in advance of the public hearing. The witnesses appearing before the Board in a public hearing shall not be required to testify under oath, but all witnesses shall be made aware if it is determined that false information has been presented to the Board, the Board has the right to reconsider its decision.

7. HEARING

(A) Unless otherwise changed by the Board for cause, each case shall be taken in the order listed on the agenda. However, the Board Chairman and the Board Secretary may arrange the agenda to accommodate any scheduling needs for staff or for the Board. As a courtesy to the elected officials, the Board may, as a preliminary matter, allow them to make a statement if he or she cannot stay for the public hearing. That testimony shall be considered a part of the record. After a public hearing is closed, no one will be allowed to speak unless the Board re-opens the case. The Board can prompt a discussion with any interested party for purposes of clarification.

(B) Addendum items shall be heard in the following manner:

1. Those cases that were deferred by the Board prior to the public hearing, at the request of an appellant shall be heard at the end of the regularly scheduled docket when rescheduled.
2. The Board, when deferring a case after opening the public hearing, shall indicate in the motion to defer whether the item will be taken up at the front or the rear of the docket on the date it is rescheduled.
3. All other business, such as cases tied up on votes, requests for rehearing, and other business before the board, shall be taken up at the rear of the docket unless it is determined that the necessity for participation of particular members is required at a specific time during the course of the public hearing to conduct the business of the Board.

(C) The Metro Code of Laws and Tennessee Code Annotated relevant to short term rentals shall be considered a part of the record in every case coming before the Board. Relevant sections will not be read verbatim into the record unless the parties make a request. The applicable ordinances and statutes will be made a part of the proceedings before the Board upon any appeal to Courts of Laws or Equity as if read verbatim into the record.

(D) The Board will base its decision only on information presented in public hearing and in the record.

(E) Each case shall be introduced by the Secretary, or their designee, including:

1. A brief explanation of why the case is before the Board, including relevant code sections;

2. A statement, either orally or in writing, by a Metro representative to the government's position on the case and the pertinent actions related to the short term rental property.

(F) The appellant shall present their case, including:

1. The appellant's name;
2. The appellant's statement of what relief is sought and why that relief should be granted; and
3. Any witnesses in support to the appeal.

(G) The opponent shall present their case, including:

1. The opponent's name;
2. The opponent's statement of why the relief sought should not be granted; and
3. Any witnesses in opposition to the appeal.

(H) Time Limits on Testimony

1. If there is no opposition, the appellant shall have 5 minutes to present their case.
2. If there is opposition present, the appellant along with those persons in support shall have 10 minutes in total to present their case. Any rebuttal time the appellant may wish to retain would come from these 10 minutes. Any persons appearing in opposition to the request shall have 10 minutes total to present testimony immediately following the close of the appellant's testimony.
3. Either the appellant or opposition may petition the Board for additional time for case presentation. The petitioner must state what extenuating circumstances exist that would prevent the petitioner from completing the case record in the allotted time.
4. Should the Board grant such a request, each side of the case shall enjoy equal time. The staff shall present requests after completing opening remarks for the Board to consider and vote upon.

(I) Any member of the Board may directly question a witness at any time during the testimony.

(J) All exhibits presented to the Board for consideration must be submitted as evidence and made part of the record unless the Board otherwise deems it unnecessary.

(K) Upon the conclusion of all of the testimony and evidence, the public hearing will be closed and no further evidence may be admitted except as the Board may permit on motion.

8. CASE DECISIONS

(A) Upon conclusion of the public hearing of each case, the Board shall discuss and vote on that case.

(B) After discussion by the members and upon motion, an appeal shall be granted or denied if it receives a majority vote of those members present at the meeting.

9. APPEALS OF BOARD ORDERS

Any aggrieved party may within 60 (sixty) days of the entry of an order appeal a finding of the Board under common law writ of certiorari in accordance with T.C.A. 27-9-101 et seq.

10. ENTRY OF ORDERS

(A) As soon as possible after the decision of the Board in a particular case, the Secretary shall enter an order describing the action taken, the reasons, therefore, and vote.

(B) The order shall be dated and signed by both the Chair or Vice-Chair and the Secretary. The Secretary is authorized to affix the Chair or Vice-Chair's signature to the order by use of a stamp bearing a facsimile thereof.

(C) A copy of the Order shall be filed at Metro Codes. A copy shall be sent to the appellant informing them of the decision of the Board.

11. RECORDS

Each action of the Board shall be recorded with an order and supporting documentation retained in the appeal file. The entire proceeding shall be recorded and that record shall be retained a minimum of six (6) months following a final decision by the Board. All such records shall be available to the public through the Secretary's office.

12. ABSENCE OF A RULE

When an issue arises which is not specifically covered by these rules, the Board will be governed by Robert's Revised Rules of Order.

13. SPECIAL MEETINGS

A special meeting may be called by the chairperson or upon the written request of three (3) or more members of the Board. Written notification of the time, place and purpose of the meeting

shall be delivered to each member of the Board at least five (5) days prior to the meeting. At special meeting, only business designated as the purpose of the meeting may be transacted.

14. ELECTION OF OFFICERS

- (A) The Board shall elect from its members a Chair and a Vice-Chair, who shall serve for one (1) year. Elections shall be held in May.
- (B) A majority of voting members present shall be required to elect a member to the position.

15. AMENDMENTS

These rules may be amended at any regular or special meeting of the Board by a positive vote of four (4) members provided all members have been notified of the amendment at least ten (10) days prior to the meeting.

16. INTERPRETATION OF THE BOARD'S RULES

- (A) The Board is the final authority as to the meaning of these rules.
- (B) The Board may, from time to time, make an exception in these rules for extraordinary cases, setting out the reasons therefore.

17. FILING, EFFECTIVE DATE, AND REPEALS

- (A) These rules shall become effective, after adoption, upon the filing of these rules with Metropolitan Clerk.
- (B) Upon adoption of any new Rules of Procedure, the previously adopted rules shall be repealed.

APPROVED AND ADOPTED ON THIS _____ DAY OF _____, 2021.

CHAIR

SECRETARY