

BE IT RESOLVED that the Amherst Zoning Board of Appeals hereby adopts the attached Rules of Order for its meetings:

AMHERST ZONING BOARD OF APPEALS RULES OF ORDER

The Rules of Order was adopted at the Zoning Board of Appeals Meeting held on October 20, 2020.

1. REGULAR MEETINGS

A. Regular meetings of the Zoning Board of Appeals ("ZBA") shall generally be held on the third Tuesday evenings of each month. When such evening is an official Town Holiday, the meeting shall be held on the following day or evening. The schedule of regular meetings shall be determined and established at the reorganizing meeting held in January and established no later than January 31 of each year. Where any deadline or meeting date shall fall on a public holiday, the ZBA, by majority vote, shall reschedule said deadline or meeting date.

B. Each regular meeting and all adjourned meetings shall be open for consideration of any matter which in accordance with these rules, may be properly brought to the attention of the ZBA.

C. The ZBA shall conduct regular business meetings at 6:30 p.m. (6:00 p.m. during videoconferencing if mandated) on the date set by the Town Board, unless the ZBA otherwise provides. At such meetings, the ZBA shall consider any and all scheduled items on its agenda, unless a by vote of a majority plus one (1) of the ZBA votes otherwise. Any unfinished items shall be carried over to the next meeting. The ZBA shall end its regular and special business meetings by 11:00 p.m., except upon unanimous consent of all members.

2. SPECIAL MEETINGS

A. Special meetings must be for business of a truly emergent nature and shall be held at the call of the Town Clerk upon direction of the Chairperson or upon filing with the Town Clerk a written request signed by any two members of the ZBA. Only business specified in the public notice thereof may be transacted at a special meeting. Notice shall be at least 48 (forty-eight) hours before the date fixed for holding the meeting.

B. In accordance with New York State Open Meetings Law, the ZBA designates the following locations for the Town Clerk to place public notices for all meetings: (1) the Town of Amherst website; and (2) the bulletin board in the hallway across from the Town Supervisor's Office. In addition, the Town Clerk shall send notification of the Special Meeting to the official Town paper; the Amherst Bee., or as designated by the Town Board.

3. CONDUCT OF MEETINGS

A. All regular and special meetings of the ZBA shall be conducted in strict accordance with

the New York State Open Meetings Law and shall either be electronically recorded or transcribed by a stenographer. All regular and special meetings of the ZBA shall be held in the Council Chambers, located at Amherst Town Hall, unless otherwise scheduled by the Town Board.

B. The Order of Business for each meeting shall be:

1. Roll call
2. Discussion and Approval of preceding meeting minutes
3. Public Hearings
4. Decisions
5. Unfinished business
6. Communications
7. Adjournment.

C. At its discretion, the ZBA may change the Order of Business at any meeting by vote of a majority plus one (1).

4. AGENDA PROCEDURES

A. Public hearings may be scheduled at staggered times on the agenda in the evening.

B. Every item to be acted upon by the ZBA at a regular meeting thereof shall be clocked-in or time-stamped in the office of the Town Clerk by individual department heads and/or their employees and/or their representatives, or by other publicly elected officials and/or their employees and/or their representatives pursuant to the Zoning Board of Appeals schedule (usually 30 days prior to the meeting). Any amended documents must be filed no later than **12 noon on the Thursday** prior to the commencement of each such regular meeting of the ZBA that the item being submitted is to be acted upon.

C. The Town Clerk shall prepare and post the agenda as well as any proposed resolutions, on the website for the Town of Amherst no later than 4:00 p.m. on the Thursday prior to the regular business meeting. Items requiring one (1) week's notice prior to enactment shall be posted immediately upon receipt.

D. **SUSPENSION OF RULES FOR UNLISTED ITEMS** - No petition, resolution, communication, or any item can be acted upon unless it physically appears on the agenda. Nothing in this rule will prevent a member of the ZBA from making an announcement or meeting reports. The ZBA may, by unanimous consent, suspend the rules in order to consider unlisted items. However these items are limited to communications received after the agenda cutoff related to an agenda item that clearly state why time is of the essence and the matter cannot wait until a later scheduled meeting or a Special Meeting.

5. MEETING PROCEDURES

A. QUORUM -The majority of the duly constituted membership of the ZBA shall constitute a quorum for the transaction of business, but a lesser number may adjourn.

B. CHAIRPERSON TO SECURE A QUORUM - In the absence of a quorum during the meetings of the ZBA, the Chairperson may take such measures as provided by law and as he/she may deem necessary to secure the presence of a quorum.

C. ROLL CALL: MINUTES - ABSENCES - At any and every meeting of the ZBA, upon the members being called to order by the Chairperson, the roll of members shall be called by the Town Clerk or designated representative and the names of those absent shall be inserted into the minutes. Any corrections, alterations, or additions to the minutes of the preceding meeting shall then be read and then the minutes deemed to be approved. In all cases when an order, resolution, or a motion shall be entered in the minutes of the ZBA, the name of the members presenting or moving the same shall be entered.

D. DECORUM

1. The Chairperson shall convene the ZBA promptly at the hour specified for the convening of the ZBA and shall preserve order and decorum. The Chairperson shall recognize Members in the order in which they have requested recognition for the purpose of debate on any question under consideration except the consent agenda. The Chairperson shall decide all questions of order, said decision being final unless an appeal is taken to the ZBA and sustained.

2. Speakers shall address the ZBA as a whole, in an orderly manner. All speakers shall refrain from partisan political commentary, personal, impertinent, slanderous or profane remarks directed to any member of the board, staff or general public that disrupt the meeting. Any person who makes such remarks or otherwise disrupts the meeting with loud outbursts, shouting, threats or other disruptive behavior shall, at the discretion of the Chairperson or after a motion and majority consensus of the board, be ruled out of order. If after receiving a warning, any person persists in disrupting the meeting, the Chairperson shall order that person to leave and may utilize law enforcement to enforce that order.

3. The Chairperson shall annually appoint the Town Attorney, or his/her designee, as Parliamentarian to assist with procedural questions, upon the Chairperson's request.

4. ZBA members who expand their comments in the Public Hearing portion of the agenda beyond the simple statement of questions shall be ruled out of order by the Chairperson.

E. APPEAL FROM THE CHAIRPERSON'S RULING

1. On every appeal, the Chairperson shall have the right to assign the reasons for his or her decision. If the question on which the appeal is taken was not debatable, the ZBA shall decide the case without debate. If the question was debatable, no member shall speak more than once concerning an appeal from the Chairperson's ruling. The Chairperson shall state the question: "Shall the ruling of the Chairperson be overturned?"

2. A motion to overrule a ruling or decision of the Chairperson shall require approval by a majority vote of the ZBA.

F. ACTING CHAIRPERSON – In the absence of the Chairperson from any meeting of the ZBA, the Chairperson shall designate and appoint the most senior member of the ZBA who shall act in the place and stead of the Chairperson, with all the powers and privileges.

G. MAJORITY VOTE - A majority of the total vote of the entire membership of the ZBA shall be necessary to carry any question, proposition, resolution, motion, or any other matter, except where it is otherwise provided herein or required by law that a two-thirds vote or a unanimous vote is required.

H. RECORDING AYES AND NOES - On a roll call, the ayes and noes shall be taken and shall be entered in the minutes of the ZBA by the Town Clerk or representative who shall record the names of the members and the way each will have respectively voted. Each member, as his or her name is called, shall respond in the affirmative or in the negative, as the case may be. To verify the vote and to correct possible errors, the Chairperson may repeat the call of the roll. The only exception to this procedure is if the member abstains from voting in accordance with Paragraph I, Abstentions, below.

I. ABSTENTIONS - Every member who shall be physically present in the Council Chambers when a question is stated by the Chairperson must cast his or her vote on the same. The only exception to this procedure is when a member abstains from voting in accordance with the Code of Ethics of the Town of Amherst. If a member wrongfully attempts to avoid casting his or her vote, wrongfully abstains, or otherwise refuses to vote, the Chairperson, or in the event that the Chairperson is the member in question, the Vice Chair or other acting chairperson, shall direct the Chairperson to record such member's vote in the affirmative on the question being voted upon.

J. WITHDRAWAL OF RESOLUTION OR MOTION - Any resolution or motion offered by a member of the ZBA may be withdrawn by the member presenting it at any time before an announcement by the Chairperson of the vote thereon, or before an amendment to such resolution or motion has been adopted, provided that the member seconding such resolution or motion shall also withdraw his or her second to the same.

K. MOTIONS NOT AMENDABLE OR DEBATABLE

1. All motions for an adjournment, for a recess, to call the previous question, or to lay on the table shall be neither amended nor debated.
2. After the roll call on any question has begun, no member shall speak on the question nor shall any motion be made until after the result is declared.
3. While the Chairperson is stating any question or while the roll is being called, no debate or discussion shall be in order. Any member desiring to explain his vote must do so before the start of the roll call, provided that, before a roll call begins, all members of the ZBA shall have a right to avail themselves of the provisions of Rule 5(L) (Previous Question).

L. PREVIOUS QUESTION -The call for the previous question after reasonable debate shall be as follows: "I move to call the previous question." Until it is decided, all amendments and debate shall be precluded. The motion requires a second and must be approved by a two-thirds majority of all members of the ZBA present. When the ZBA shall order the previous question called and amendments are pending, the question shall first be taken

upon the amendment(s) and then upon the main question without further debate.

M. MOTION TO RESCIND - A motion to rescind can only be entertained when moved by a ZBA member who voted with the majority in the action which is proposed to be rescinded and the motion requires the affirmative vote of a majority of the total members of the ZBA.

N. MOTIONS FOR RECONSIDERATION AND CHANGING ONE'S VOTE

1. A motion for reconsideration or a motion to change one's vote shall not be in order unless made on the same meeting day or on the regular meeting day next succeeding that on which the action proposed to be reconsidered or upon which a change of vote is requested took place. A quorum must be present.

2. A motion to reconsider must be made by a ZBA member who voted with the prevailing side on the action proposed to be reconsidered. A member has a right to change his or her vote up to the time the result is announced. Afterward, a change of vote can be made only by permission of the ZBA. Such permission can be given by general consent or by adoption of a motion to grant permission.

3. When a motion to reconsider or a motion to change one's vote has been defeated, it shall not be submitted to the ZBA without unanimous consent for a period of at least thirty (30) days.

O. ALL POINTS OF ORDER NOT COVERED BY THESE RULES - On all points of order not governed by these rules of the ZBA, Robert's Rules of Order (Revised) shall prevail. In the event that a point of order shall arise which cannot be covered by either the ZBA or by Robert's Rules of Order (Revised), the Rules of the New York State Assembly shall be followed.

P. RESOLUTION AMENDMENTS - The ZBA shall not vote on any proposal or resolution unless each member of the ZBA and the Town Clerk have possession of the proposal or resolution in writing prior to the commencement of the meeting. Any amendment during a meeting must be presented to the Town Clerk and the ZBA in writing by the sponsor of the amendment.

Q. MINUTES - The ZBA directs the Town Clerk to collect the names and addresses of every person who speaks during public hearings and to publish their names in the Town Board meeting minutes.

R. SECOND REQUIRED FOR DISCUSSION - At a regular business meeting, the ZBA shall not discuss any agenda item that does not receive a second.

S. PUBLIC HEARINGS

1. Following the Petitioners' public comments that may last up to fifteen (15) minutes, a knowledgeable leader of any opposition or their attorney may also have fifteen (15) minutes for a rebuttal presentation. All other speakers at all public hearings may only speak once and shall limit their oral comments to no more than three (3) minutes. Any extension of the time limitations may be extended at the sole discretion of the Chairperson.

2. Whenever a public hearing shall extend for more than ninety (90) minutes, the ZBA by four-fifths majority vote, may adjourn the balance of the hearing to a future regular ZBA meeting. On the occasion of such an adjournment; however, all speakers who have not already spoken, yet wish to give testimony, shall pre-register to speak at the adjourned session. At that adjourned session, no oral comments will be heard from anyone other than those who have pre-registered. Written comments may be submitted at any time prior to the close of the hearing and will be included as part of the official record. Upon conclusion of all testimony on the matter that the public hearing concerns, the ZBA, after giving due consideration to all applicable New York State or local laws, shall vote on the matter or set a future decision date.

3. The ZBA may vote on any public hearing matter for which all speakers have been accommodated and the hearing is closed.. Decisions shall be delayed until the meeting following the meeting at which the public hearing was held if requested by two (2) ZBA members. All other hearing decisions may be delayed until the next regular meeting of the board to allow public comment to be submitted and evaluated.

4. Participation of ZBA members during public hearings is limited to questions on the subject matter. ZBA members who expand their comments in the public hearings portion of the agenda beyond the simple statement of questions shall be ruled out of order by the Chairperson.

5. Persons whose comments at public hearings are NOT on the topic of the public hearing shall be warned by the Chairperson and if they argue or persist off topic may be ruled out of order.

T. AMENDMENTS OF THESE RULES OF ORDER

These Rules shall not be rescinded, altered, or amended, nor shall any additional rule be added thereto except by a majority vote of the total members of the ZBA and only after at least one (1) week's notice in writing filed with the Town Clerk.

U. MAINTENANCE OF THESE RULES OF ORDER

The Amherst Town Attorney's Office shall be responsible for maintaining these Rules of Order and for changing them pursuant to amendments adopted by the ZBA. As soon as possible after their adoption and subsequent amendment, the Rules of Order in effect shall be posted on the Town of Amherst website and shall be filed with the Amherst Town Clerk, who will make them available to the public upon request.

The Town Clerk shall have available for immediate visual display for the public a complete and up-to-date copy of the Amherst Zoning Board of Appeals Rules of Order.

These Rules are effective immediately.