

ARTICLES OF RULES AND PROCEDURES

McHENRY COUNTY
HEARING OFFICER

McHENRY COUNTY GOVERNMENT CENTER
ANNEX BUILDING A
WOODSTOCK, ILLINOIS

Adopted _____, 2003

ARTICLE I: GENERAL PROVISIONS

- Section 1: These rules are supplementary to the provisions of the *McHenry County Zoning Ordinance* as they relate to procedures of the McHenry County Hearing Officer (MCHO).
- Section 2: The State's Attorney shall be consulted in cases where the powers of the Hearing Officer are not clearly defined.
- Section 3: The office of the MCHO shall be located in the Office of Planning & Development Department at the McHenry County Government Center, Woodstock, Illinois.
- Section 4: The records of hearing for variations are public records and as such are available for reference and review in the MCHO office. Copies of requested documents are available, subject to fee provisions established by the County Board, and subject to the *Freedom of Information Act*.

ARTICLE II: RESPONSIBILITIES AND DUTIES

- Section 1: The McHenry County Hearing Officer shall conduct all hearings relating to requests for variations and decide all points of order for said hearings.
- Section 2: A secretary/coordinator shall be provided for the MCHO with the concurrence of the McHenry County Board and/ or liaison committee.
- Section 3: A Court Reporter shall be present at every hearing (except proceedings conducted solely for the purpose of setting a date for a continued hearing) in order to provide the MCHO with a transcript of the proceedings.

ARTICLE III: HEARINGS

- Section 1: Variation hearings are generally held, as necessary, at the McHenry County Government Center.
- Section 2: Special meeting or additional hearings may be called by the Hearing Officer at his or her discretion. These hearings shall be held at times, dates and places to be designated.
- Section 3: All hearings shall be held in accordance with the *Open Meetings Act*.
- Section 4: A petitioner may need to request a continuation of a hearing prior to the date assigned. These requests must be received by the coordinator at least forty-eight (48) hours before the date and time assigned. Less than forty-eight (48) hours notification will result in additional fees to cover costs incurred as determined by the Hearing Officer.

Continuances of a hearing in process may be granted at the discretion of the MCHO. Additional costs incurred for continuances requested by the

petitioner shall be borne by the petitioner; the amount to be determined by the MCHO.

Section 5: Once a hearing time and date has been assigned, the petitioner may withdraw the petition. If the petition is withdrawn in writing at least 72 hours prior to the scheduled opening of the hearing, the petitioner shall receive a refund of all filing fees paid less \$250.00. When a petition is withdrawn prior to a hearing time and date being assigned, petitioner shall be entitled to a refund of all filing fees paid less \$100.00. In all other situations, filing fees collected are not refundable.

ARTICLE IV: PROCEDURES AND ORDER OF BUSINESS

Section 1: General Procedures

- A: The petition for a variance before the McHenry County Hearing Officer shall be prepared and presented in accordance with the requirements of the *McHenry County Zoning Ordinance*. Petitioners having questions regarding the preparation of a petition for a variation should consult the ZBA/MCHO Coordinator. Petitions must address to that part of the ordinance to be varied and the specific amount of variance requested.
- B: Hearings shall be held in the McHenry County Government Center, Woodstock, Illinois.
- C: A petitioner or objector, or his agent or attorney, may submit to the MCHO a list of the persons favoring or opposing the petition. Such documents will be admitted into evidence by the MCHO and forwarded to the County Board.
- D: All witnesses shall testify under oath.
- E: The MCHO shall not be bound by the strict rules of evidence. The Hearing Officer may exclude irrelevant, immaterial, incompetent, or unduly repetitious testimony.
- F: The MCHO shall rule on all questions relating to the admissibility of evidence.
- G: The report of the McHenry County Hearing Officer shall contain a short summary of the petition, location of the property, and the findings of fact made for the recommendation.
- H: The MCHO may postpone a recommendation on any petition to the next regularly scheduled hearing date. Further delay in the recommendation may only occur with the approval of the petitioner, his attorney, or agent.

Section 2: SUGGESTED ORDER OF BUSINESS DURING HEARINGS (Subject to modification by the MCHO).

- A: Call to order and reason or purpose for the hearing
- B: Petition may be read at the discretion of the MCHO.
- C: Recognition of fees, publication, and posting of property, notification by Illinois Department of Conservation concerning endangered species and receipt of MCSWCD Soil Report.
- D: Swearing in those who will present testimony.
- E: Petitioner presents testimony and evidence.
- F: Cross examination by MCHO, Public, and observers.
- G: Public who are sworn present testimony and evidence.
- H: Cross examination of Public's testimony by MCHO and petitioner.
- I: Summary statements by petitioner or his/her attorney.
- J: Hearing Closed.
- K: Recommendation given.

ARTICLE V: NOTICES OF HEARINGS

- Section 1: The petitioner shall file a sworn affidavit containing a copy of the notice, the names and addresses of all taxpayers entitled to notice and those who received notice. Said affidavit and list shall be filed with the MCHO at least four (4) days prior to the hearing, exclusive of the date of the hearing itself.
- Section 2: The secretary/coordinator shall provide a Publicity Release to be furnished to the newspapers for publication within the County.
- Section 3: All petition requirements and fees must be furnished and paid prior to the setting of a hearing time and date.