

Appeals from Zoning Ordinance Determinations Circuit Court Appeal Procedure

The procedure for appeals to Circuit Court from a zoning ordinance determination is governed by MCR 7.122. Please note the following highlights. Failure to comply with the Court Rules may result in a sanction up to and including dismissal of your appeal.

1. Unless MCR 7.122 provides otherwise, MCR 7.101 through 7.115 apply. This rule does not apply to legislative decisions of a city, village, township, or county, such as the adoption of or amendment to a zoning ordinance. MCR 7.122(A)(1).
2. Appellant must attach to the claim of appeal a copy of the order and/or minutes of the officer or entity from which the appeal is taken or must indicate that there is no such document to attach. MCR 7.122(C)(4).
3. Appellant must promptly file in the Circuit Court proof that a copy of the claim of appeal was served on the clerk of the city, village, township, or county as well as the board, commission, or other entity that made a determination that is the subject of the appeal. MCR 7.122(C)(5).
4. Within 28 days after service of the claim of appeal, the clerk of the city, village, township or county from which the appeal is taken must file the record with the Circuit Court and notify Appellant and Appellee of the transmittal of the record to the Circuit Court. MCR 7.122(E)(2) and (5).
5. The Circuit Court must immediately send written notice to the parties when the record is filed. MCR 7.109(G)(3).
6. The appeal is heard by the Circuit Court on the certified record. Pursuant to MCR 7.122(F), briefs and oral arguments are governed by MCR 7.111 which state as follows:
 - a. Within 28 days after the Circuit Court clerk notifies the parties that the record on appeal has been filed with the Circuit Court, Appellant must file a brief in the Circuit Court and serve it on Appellee. MCR 7.111(A)(1). Appellee may file and serve a reply brief within 21 days after Appellant's brief is served on Appellee. MCR 7.111(A)(2).
 - b. If Appellant does not file a brief within the 28 days and the Circuit Court has not granted a motion for further time, the appeal may be considered abandoned, and the Circuit Court may dismiss the appeal on 14 days' notice to the parties. MCR 7.111(A)(1)(b).
 - c. A party who has filed a timely brief is entitled to oral argument by writing "**ORAL ARGUMENT REQUESTED**" in boldface type on the title page of the party's brief. MCR 7.111(C). Even if oral arguments are properly requested, the Circuit Court may dispense with oral arguments if the briefs and record adequately present the facts and legal arguments, and the Circuit Court's deliberation would not be significantly aided by oral argument. MCR 7.114(A). The assignment clerk will schedule a hearing and notify the parties by mail. If oral arguments are not requested, the file will be submitted to the judge to whom the appeal is assigned for decision.
7. For appeals under MCL 125.3606, the Circuit Court shall review the record and decision of the Board of Appeals to insure that the decision: (a) complies with the constitution and laws of the state; (b) is based upon proper procedure; (c) is supported by competent material, and substantial evidence on the record; and, (d) represents the reasonable exercise of discretion granted by law to the Board of Appeals. MCR 7.122(G)(1).
8. For other zoning ordinance determination appeals, the Circuit Court shall determine whether the decision was authorized by law and the findings were supported by competent, material, and substantial evidence on the whole record. MCR 7.122(G)(2).

Please see the Michigan Court Rules for further information.