



**BY-LAWS
AND
PROCEDURES
FOR THE
CITY OF DEARBORN
ZONING BOARD OF APPEALS**

Adopted October 28, 2021

ARTICLE I. STATEMENT OF PURPOSE

The Michigan Zoning Enabling Act (Public Act 110 of 2006; MCL 125.3101 et seq.) empowers the City of Dearborn to establish a zoning ordinance to regulate the development of land within its boundaries. The creation of a Zoning Board of Appeals is a required component of a valid zoning ordinance.

The Council adopted zoning ordinance 93-553 effective February 2, 1993. Articles 32 and 33 of that ordinance established general procedures, standards and administrative organization for the Zoning Board of Appeals.

These by-laws and procedures serve to provide additional standards for the conduct of the business of the Zoning Board of Appeals to aid it in carrying out its responsibilities in clear, consistent and fair fashion.

ARTICLE II. OFFICERS OF THE BOARD

Section 1. The officers of the Board, in their line of authority, shall be a Chairperson, Vice-Chairperson and Secretary.

Section 2. Duties of the Chairperson

- i. Presides over all meetings of the Board
- ii. Appoints all committees or advisory committees established and provided for the Board
- iii. Shall have the right to vote as a Board member on all matters before the Board
- iv. Shall have the same right to introduce a motion as any other Board member
- v. In the absence of the Secretary, shall appoint a temporary Secretary from the members of the Board present
- vi. Shall perform all the additional duties and responsibilities which are a normal part of that office and as directed by the Board

Section 3. Duties of the Vice-Chairperson

- i. Assumes the duties and responsibilities of the Chairperson in the event of absence of the Chairperson
- ii. Shall have the right to vote as a Board member on all matters before the Board
- iii. Shall have the same right to introduce a motion as any other Board member

- iv. Shall perform all the additional duties and responsibilities which are a normal part of that office and as directed by the Board

Section 4. Duties of the Secretary

- i. Announce and read out the appeals at the beginning of the hearing for each appeal
- ii. Shall aid other Board members as needed in putting a motion into correct form for a vote
- iii. Shall have the right to vote as a Board member on all matters before the Board
- iv. Shall have the same right to introduce a motion as any other Board member

Section 5. Election of Officers

- i. Schedule: The Board shall elect its officers annually at the first regularly scheduled meeting in each calendar year. The election of officers shall appear on the published agenda for that meeting. The Board may choose to postpone the election by resolution if there is a need for nominees or additional voting members to be present.
- ii. Nomination: Officers shall be nominated orally at the election meeting. Any nominee shall accept or decline the nomination prior to the vote for such office.
- iii. Election: Election for each office shall be held immediately after nominations. The election shall be by roll call vote unless a member of the board requests vote by written ballot instead. A simple majority of the Board is needed to elect an officer. The Board may provide for the election of its officers by secret ballot.
- iv. Special Elections: A special election shall be held to fill a vacancy at the next regularly scheduled meeting of the Board at which the item can be placed on the published agenda. Special elections shall follow the normal election procedure as set forth herein.

Section 6. Terms of Office

- i. All officers shall serve until the first regular meeting of the succeeding calendar year, or until successors are elected.
- ii. All current officers of the Board shall be eligible for re-election or for any vacancy of office except as noted below related to term limits.
- iii. Term Limits: A member may serve no more than five consecutive terms (years) in a specific office.

- iv. Alternate Zoning Board members may not serve as elected officers of the Board, but may serve temporarily as Secretary if so assigned by the Chairperson when the elected Secretary is absent.
- v. No member of the Board shall hold more than one elected office at any given time.
- vi. All members of the Board shall serve without compensation.

Section 7. Ethics and Conflicts of Interest

- i. A member of the ZBA shall abstain from discussion or voting on any matter where that member is involved in a real or apparent conflict of interest. Decisions regarding conflicts of interest shall be evaluated on a case-by-case basis with reasonable application of the principles in this Section. A conflict of interest shall at a minimum include, but is not necessarily limited to:

- a. Discussing, voting on, or otherwise acting on a matter in which a member or any member of his/her immediate family, his/her partner, or an entity with whom the member has family or business ties has a direct or indirect financial or beneficial interest. Immediate family shall include the member's spouse, parent, grandparent, child, grandchild, brother or sister or the spouse of any of them.

- b. Discussing, voting on, or otherwise acting on a matter involving work on property which is owned by that member or which is adjacent to property owned by that member.

- c. Discussing, voting on, or otherwise acting on a matter where the member's employee or employer is an applicant or agent for an applicant, or has a direct financial or beneficial interest in the outcome.

- ii. When a conflict of interest exists with regard to a particular matter, the member of the Board who is subject to the conflict, shall do all of the following immediately, upon first knowledge or realization that a conflict exists:

- a. Declare that a conflict exists and that the member will recuse him or herself from the matter.

- b. Disclose, except where it violates a confidence, the general nature of the conflict, and the minutes shall so record the conflict and recusal.

- c. Cease to participate in any matter when the matter is discussed, voted on, or otherwise acted on at a meeting, or any other forum.

d. During deliberation of the matter before the Board or a committee, leave the meeting or the area where members of the Board sit, until action on the matter is concluded.

- iii. Before discussion on an item or voting, a member shall disclose all pertinent facts regarding the potential conflict of interest, except where it violates a confidence, and those facts shall be included in the minutes.
- iv. Where a question has arisen as to whether a member is ineligible to participate in discussion or vote on a matter because of a conflict of interest, the Board may determine that the member is ineligible due to a conflict of interest by a vote of a majority of the other members. Upon such a determination, the ineligible member shall not participate in discussion or vote on the matter.
- v. If the recusal of a member of the Board results in the loss of a quorum, then the matter shall be postponed until the next regularly scheduled meeting, and testimony shall not be heard without a quorum.
- vi. A member of the Board shall neither solicit nor accept gratuities, favors, or anything of monetary value from entities in a position to benefit from a decision of the Board.
- vii. A member of the Board shall not obtain, for himself or herself or for any person with whom he/she has business or family ties, any financial or beneficial interest in a matter which may be affected by a decision of the Board. This restriction shall apply during the member's tenure on the Board and for one year thereafter.
- viii. A member shall not appear before the Board as a representative of a petitioner, or as a party interested in a petition during the member's term of office. If a member of the Board has a petition or appeal before the Board, the member must follow the rules regarding conflicts of interest in Section 7(ii) of the by-laws. In addition, the member may not be present in the same room as the Board while it hears and discusses the petition or appeal, and must elect a representative to present the petition or appeal to the Board. The representative may not be a member of the Board, may not be an immediate family member or partner of anyone on the Board that is ruling on the petition or appeal, and may not be connected or affiliated in any way with an entity that has family or business ties that have a direct or indirect financial or beneficial interest with any member of the Board ruling on the petition or appeal.

- ix. Members shall conduct themselves in a fair, courteous, and understanding manner at all times in the discharge of their duties, and shall avoid exchanges or actions based upon personal differences.

ARTICLE III. CITY STAFF SUPPORT

Section 1. The Economic & Community Development Department and Department of Law shall provide supportive staff for the Board to ensure that the Board can carry out its duties effectively and in accordance will all applicable laws and ordinances.

Section 2. All communications, appeals and reports addressed to the Board shall be delivered, mailed or emailed to the Economic & Community Development Department.

Section 3. The Zoning Administrator shall assist the Board in carrying out its powers and duties. To that effect, the Zoning Administrator shall carry out the following:

- i. Processing and review of appeal applications for accuracy and completeness prior to placement on the agenda of the Board for a hearing
- ii. Preparation of the agenda for Board meetings to include all appeal applications found to be complete and accurate
- iii. Preparation and distribution of required public notices for hearings of the Board
- iv. Preparation of Board meeting packets to be distributed ahead of the meetings to the Board members (packets to include all application materials, staff reports and any outside correspondence received regarding the appeal)
- v. Preparation of a presentation for the Board meeting including submitted plans and photographs that will aid the attending public and Board in understanding and discussing the appeals on the agenda at that meeting.
- vi. Take an audio recording of the meeting and notes during the meeting to be used to prepare draft minutes for the Board to review and approve at the following meeting.
- vii. Provide official notice of all Board actions to applicants and other city staff as needed for implementation.
- viii. Prepare a yearly summary of the actions of the Board for inclusion in the City's Annual Report
- ix. Other duties as needed to support the work of the Board

Section 4. The attorney assigned to the Zoning Board of Appeals by the Corporation Counsel shall attend meetings of the Board and shall advise the Board as needed or upon request with regard to any matters or questions of law that may arise as part of the Board's function.

ARTICLE IV. MEETINGS

Section 1. Regular Meetings

- i. Regular meetings of the Board shall be scheduled, noticed to the public and held at least once per month at a time and place designated by the Board and in accordance with the MZEA & Open Meetings Act (OMA, Public Act 267 of 1976), unless the Board cancels the meeting for lack of a quorum or lack of business to be conducted.
- ii. All regular meeting dates shall be set forth in December for the following calendar year.

Section 2. Special Meetings

- i. Special meetings may be held as called by the Chairperson or by any three Board members.
- ii. Special meetings of the Board shall be noticed to the public and held in accordance with the MZEA and OMA. The public notice requirements of the MZEA require that notices be published and mailed at minimum of 15 days prior to the meeting, this constrains when special meetings may be scheduled relative to the monthly scheduled regular meetings of the board which may lead to the appeal in question being placed on the next regular meeting agenda instead of at a separate meeting.

Section 3. Conduct/Format of Meetings

- i. General agenda for a Board Meeting:
 - a. Call the meeting to order
 - b. Call the roll (determine if there is a quorum to proceed with the business on the agenda, three Board members constitute a quorum for all business except use variances which requires four)
 - c. Review and approval of the minutes of the prior meeting
 - d. Appeal hearings (on agenda in the order of appeal number, which are assigned by staff sequentially as the applications are submitted)

- e. Other business (elections, announcements, comments from the public not related to a specific appeal)
 - f. Meeting adjourned
- ii. General format of appeal hearings:
- a. Appeal is announced by the Board Secretary
 - b. Appellant(s) come to podium and introduces themselves
 - c. Zoning Administrator presents a summary of the appeal
 - d. Appellant(s) present evidence for their appeal
 - e. Call for public comment related the appeal under consideration
 - f. Chairman asks staff for any outside correspondence related to the appeal
 - g. Public comment closed
 - h. Board deliberates
 - i. Chairman calls for a motion on the appeal
 - j. Motion is made, no further discussion unrelated to the motion occurs until the motion is acted on or fails due to lack of support or votes to approve or deny.
 - k. Once a motion has been approved or denied, that action is final and the hearing for that appeal is complete.
 - l. An applicant may withdraw his or her application at any time prior to action thereon with the consent of the Board, but if a motion that has been made is pending either to grant or deny, the motion will have precedence.
 - m. All voting shall be by voice and shall be recorded as yes or no. Roll call votes will be taken and recorded upon every non-unanimous decision.
- iii. Public participation
- a. All persons shall be permitted to attend any meeting and may not be excluded, except for a breach of the peace committed at such a meeting.

- b. Any person attending a meeting, unless excluded under the proceeding section, may speak in accordance with the established rules of the Board.
- c. Any person attending a meeting may record or broadcast the proceedings of the Board, so long as their activities do not interfere with the participation of other members of the public or appellants, or unreasonably interfere with the conduct of the meeting.
- d. Any person attending a meeting may speak upon an item during the public comment period for such case. Otherwise, a person attending a meeting may speak only during the general public comment period during the Other Business period at the end of the meeting agenda.
- e. To assure that all those in attendance will have an opportunity to be heard, the Chairperson may announce and impose reasonable restrictions with respect to the conduct of the meeting, which restrictions may include imposition of a three (3) minute time limit on public participation by each speaker and a limit on the number of persons to be heard. Typically, the limitation on the number of speakers or the imposition of a three (3) minute time limit may be imposed by asking for a spokesperson if there are a large number of persons who wish to comment during the public participation portions of the meeting or to ensure they all have a chance to be heard.
- f. The Chairperson may limit comments to appeals being heard or matters relating to functions of the Board.
- g. The Chairperson may request any person disrupting the meeting to leave the meeting room. If such person does not leave, the meeting may be recessed until the disturbance has been quelled and/or the disruptive person removed.

iv. Attendance

- a. Each member of the Board is required to attend a minimum of two-thirds of the regularly scheduled Zoning Board of Appeals meetings in a calendar year. If a member has not fulfilled this requirement during a twelve (12) month period, the Board may declare that member's position vacant by a majority vote of the Board. The Board, shall in writing, notify the Mayor of its decision. The Board may grant a waiver, given sufficient explanation of extenuating circumstances.

v. Training

- a. Each member of the Board shall attend a basic training class offered by the Michigan Municipal League within one (1) year of appointment. Each member may attend additional training in zoning during the current member's term of office, which shall be provided by one or more of the following organizations: Michigan Association of Planning, Michigan State University Extension, Michigan Townships Association, Michigan Municipal League, continuing education programs of Michigan State University, University of Michigan, Northern Michigan University, Central Michigan University, or Wayne State University. The expense for this training shall be covered by the City of Dearborn if pre-approved by the Director of the Economic and Community Development Department.

vi. Minutes

- a. In compliance with the Open Meetings Act, MCL 15.261, et seq. ("OMA"), the Board shall make proposed minutes, marked with a "Draft" watermark, available for public inspection within 8 business days after the meeting to which the minutes refer.
- b. The Board shall make approved minutes available for public inspection within 5 business days after the meeting at which the minutes are approved by the public body.