

**CITY OF HASTINGS
BARRY COUNTY, MICHIGAN
Zoning Board of Appeals
BY-LAWS AND RULES OF PROCEDURE
December 16, 1997
Amended - June 17, 2003
Amended – February 18, 2020**

1. AUTHORITY:

These rules of procedures are adopted by the City of Hastings Zoning Board of Appeals (hereinafter referred to as the Board) pursuant to the revised Statutes of Michigan and the amendments thereof and supplements thereto, and Section 5 Act 207 of 1921, as amended, the Open Meetings Act and the Michigan Zoning Enabling Act, Act 110 of 2006, as amended.

2. COMPOSITION, ATTENDANCE, PARTICIPATION:

2.1 *Membership.* The Board shall be comprised of five (5) regular members, each to be appointed by the mayor with the approval of council for overlapping terms of three years, running from January 1 of the year appointed. The board shall elect its own chairperson and vice chairperson. The mayor with the approval of council shall appoint two (2) alternate members serving for the same term as regular members. A member of City Council may serve as a regular or alternate member of the Zoning Board of Appeals.

2.2 *Attendance.* Regular members and alternate members shall attend all meetings.

2.3 *Participation.* Regular members shall inform the Chairperson of any conflict of interest (as described in Section 8 herein) in any matter prior to the Board commencing consideration of the matter. The Chairperson shall then inform the alternate members of the need for their participation in each matter prior to the Board commencing consideration of each matter.

2.4 *Conduct.* Members, including alternate members, are obligated to maintain due diligence and may be recommended to Hastings City Council for dismissal upon:

1. Having **excessive** un-excused absences from meetings.

2. Behaving in a manner so as to bring discredit on the Board, or by engaging in conduct unbecoming of a Board member. Recommendation for dismissal may be made through a motion and second by any member of the Board, and an affirmative vote for dismissal of four (4) members of the Board.

3. OFFICERS

3.1 Selection. At the March meeting, or next convened meeting, the Board shall select from its membership a Chairperson and a Vice-chairperson who shall serve for a twelve-month period and who shall be eligible for re-election. The Board shall also appoint a Secretary who shall perform the duties described herein. Alternate Board members are not eligible to hold Office.

3.2 Tenure. The officers shall take office immediately following their election. They shall hold their office for a term of one year, or until their successors are elected and assume office.

3.3 Duties.

A. The Chairperson

1. The Chairperson shall be the chief executive of the Board and shall preside at all meetings of the Board.
2. The Chairperson shall appoint all committees or advisory committees established and provided by the Board.
3. The Chairperson shall sign all contracts or legal documents authorized by the Board.

B. The Vice-Chairperson

1. In the event of the absence of the Chairperson or his or her inability to discharge the duties of his or her office, such duties shall, for the time being, be performed by the Vice-Chairperson.
2. In the event that the office of Chairperson becomes vacant, the Vice-Chairperson shall serve as Chairperson until a new Chairperson is elected.

C. The Secretary

1. The Secretary shall keep minutes of all meetings of the Board and sign the adopted version of the minutes.
2. The Secretary shall be responsible for all correspondence and notices pertaining to meetings and official acts of the Board.

4. MEETINGS

- 4.1 *Meeting Notices.*** All meetings shall be posted at Hastings City Hall according to the Open Meetings Act. The notice shall include the date and time of the meeting.
- 4.2 *Regular Meetings.*** Regular meetings of the Board shall be held monthly in the Hastings City Hall on the third Tuesday of each month at 7:00 p.m. The dates and times shall be posted at the Hastings City Hall in accordance with the Open Meetings Act. Any changes in the date or time of the regular meetings shall be posted and noticed in the same manner as originally established. When a regular meeting date falls on or near a legal holiday, the Board shall select suitable alternate dates in the same month, in accordance with the Open Meetings Act.
- 4.3 *Special Meetings.*** A special meeting may be called by two members of the Board upon written request to the Secretary or a special meeting may be called by the Chairperson. The business which the Board may perform shall be conducted at a public meeting of the Board held in compliance with the Open Meetings Act. Public Notice of the time, date, and place of the special meeting shall be given in a manner as required by the Open Meetings Act, and the Revised Statutes of Michigan, and the Amendments thereof and supplements thereto, if applicable, and the Secretary shall send written notice of a special meeting to Board members not less than 48 hours in advance of the meeting.
- 4.4 *Quorum.*** *Three (3)* members of the Board shall constitute a quorum. In order for the Board to conduct business or take any official action, a quorum shall be present. When a quorum is not present, no official action, except for closing of the meeting may take place. The members of the Board may discuss matters of interest but can take no action until the next regular or special meeting. All public hearings without a quorum shall be scheduled for the next regular or special meeting and no additional public notice is required provided the date, time, and place is announced at the meeting.

4.5 Hearings. Hearings shall be scheduled, and due notice given in accordance with the provisions of the acts and ordinance cited in Section 1.

Public hearings and the dates thereof shall be set by a vote of the Board, except that in case of an emergency (as determined by the Chairperson) the Chairperson may schedule a public hearing for the next available regularly scheduled Board meeting, or for a special meeting subject to due notice procedures.

Public hearings conducted by the Board shall be run in an orderly and timely fashion. This shall be accomplished by the following procedure:

- A.** The Chairperson shall open the hearing indicating the basic nature of the request, citing public notice in official newspaper, and notification of neighboring properties (if applicable).
- B.** The Chairperson shall announce the order of hearing which is as follows:
 - (1) Explanation of request by the applicant.
 - (2) Review by staff / professionals.
 - (3) Comments and explanations by applicant.
 - (4) Questions by Board.
 - (5) Responses by professionals and/or applicant.
 - (6) Opening of hearing for public comments.
 - (7) Close hearing to public comments.
 - (8) Response by professional and/or applicant
 - (9) Consideration of action by Board.

4.6 Motions. Motions shall be restated by the Chairperson before a vote is taken. The name of the maker and supporters of the motions shall be recorded.

4.7 Voting. An affirmative vote of the majority of the total membership of the Board shall be required for the approval of any requested action or motion placed before the Board. If fewer than five (5) members and alternate members are in attendance, hearings may be held at the discretion of the applicant after being given notice that *three (3)* votes are required for approval of any request irrespective of the number of members and alternate members empaneled. Alternate member empaneled for a hearing shall be appointed by the Chairperson. Voting shall ordinarily be voice vote; provided however that a roll call vote shall be required if requested by any Board member or as directed by the Chairperson.

All members of the Board including the Chairperson, shall vote on all matters, but the Chairperson shall vote last. Any member may be excused from voting but only if that person has a bonafide conflict of interest as set forth in Section 8 herein.

Alternate Board members may vote on all matters that are strictly procedural and not related to a zoning request, and on any zoning related issue when empaneled by the Chairperson. The Chairperson will not empanel more than five (5) members for a given decision.

4.8 *Order of Business.* A written agenda for all regular meetings shall be prepared as follows. The order of business shall be:

- (1) Call to Order
- (2) Pledge of Allegiance
- (2) Roll Call
- (3) Approval of Agenda
- (4) Approval of Minutes
- (5) Public Hearings
- (6) Old Business
- (7) New Business
- (8) Public Comments and Communications Concerning Items Not on the Agenda
- (9) Board Comments
- (10) Adjournment

4.9 *Rules of Order.* All meetings of the Board and its Sub-Committees shall be conducted in accordance with generally accepted parliamentary procedure, as governed by "Robert's Rules of Order".

4.10 *Notice of Decision.* A written notice containing the decision of the Board will be sent to petitioners and originators of a request.

5. MINUTES

5.1 Board minutes shall be prepared under the supervision of the Secretary of the Board. The minutes shall contain a brief synopsis of the meeting, including a complete restatement of all motions and recording of votes; complete statement of the conditions or recommendations made on any action; and recording of attendance. All communications, actions, and resolutions shall be attached to the minutes. The official records shall be deposited with and kept by the City Clerk.

6. OPEN MEETINGS AND FREEDOM OF INFORMATION PROVISIONS

- 6.1** All meetings of the Board shall be open to the public and held in a place available to the general public.
- 6.2** All deliberations and decisions of the Board shall be made at a meeting open to the public.
- 6.3** A person shall be permitted to address a hearing of the Board for a period of three minutes (additional time may be granted at the discretion of the Chairperson), and to address the Board concerning non-hearing matters to the extent that they are applicable.
- 6.4** A person shall not be excluded from a meeting of the Board except for breach of the peace committed at the meeting.
- 6.5** All records, files, publications, correspondence, and other materials are available to the public for reading, copying, and other purposes are governed by the Freedom of Information Act.

7. AMENDMENTS

These rules may be amended by the Board by a concurring vote during any regular meeting, provided that all members have received an advance copy of the proposed amendments at least three days prior to the meeting at which such amendments are to be considered.

8. CONFLICT OF INTEREST

A member of the Zoning Board of Appeals shall vote on all matters unless there is a legitimate conflict of interest. Members shall be guided by the following in determining if a legitimate conflict of interest exists:

CONFLICT OF INTEREST

A CONFLICT OF INTEREST EXISTS IF A COVERED INDIVIDUAL'S POSITION OR AUTHORITY AT THE CITY, INCLUDING THE RIGHT TO VOTE AT A COUNCIL, BOARD OR COMMITTEE MEETING, MAY BE USED TO INFLUENCE A CITY DECISION, TRANSACTION OR ARRANGEMENT THAT LEADS OR MAY LEAD TO ANY FORM OF FINANCIAL OR PERSONAL GAIN OR ADVANTAGE FOR THE COVERED INDIVIDUAL, THEIR FAMILY, OR THEIR EMPLOYER OTHER THAN THE CITY.

The member must abstain from any consideration regarding the matter including abstaining both from discussion of the matter and abstaining from voting on the matter. It is good policy also that the member excuse him/herself from the Board table during the discussion of such matter.

PERCEPTION OF CONFLICT OF INTEREST

A PERCEPTION OF A CONFLICT OF INTEREST ARE THOSE CIRCUMSTANCES IN WHICH A MEMBER OF THE BOARD IS PERCEIVED TO HAVE AN INTEREST IN A PARTICULAR MATTER BECAUSE OF A RELATIONSHIP WITH THE PARTY REQUESTING THE ACTION.

If a perception of conflict of interest exists, the Board member should disclose the nature of the relationship so that all persons in the room are both aware of the item and understand that the Board is also aware. The Chair may then conclude that because it is only a perception of a conflict of interest the Board member need not abstain from participation in the matter.

THESE ARE GENERAL RULES AND MAY NOT APPLY SPECIFICALLY IN EVERY INSTANCE.

THESE BY-LAWS AND RULES OF PROCEDURES ARE ADOPTED THIS 18th DAY OF February 2020.

CITY OF HASTINGS Zoning Board of Appeals