

NOTE: These are only an example of zoning board of appeals bylaws, and an individual zoning board of appeals may adopt more or less comprehensive bylaws, according to its preferences, as long as the bylaws do not conflict with applicable laws. A zoning board of appeals should work with other township officials, staff, planning consultants or legal counsel to develop bylaws that work within the township's staffing levels, budget, organizational structure and local preferences.

Sample Zoning Board of Appeals Bylaws

The following rules of procedure are hereby adopted by the _____ Township Zoning Board of Appeals to facilitate the performance of its duties as outlined in the Michigan Zoning Enabling Act, Public Act 110 of 2006, MCL 125.3101, *et seq.*

SECTION 1: Officers

- A. Selection and Tenure**— At the first regular meeting each ____ (*identify month that begins the new fiscal, calendar or other designated zoning board of appeals "year"*)____, the zoning board of appeals shall select from its membership a chairperson and secretary (*include "vice-chairperson" or other officer established by the zoning board of appeals, as applicable*). All officers shall serve a term of one year, or until their successors are selected and assume office, except as noted in C, below. All officers shall be eligible for re-election for consecutive terms (**Alternatives:** *every other year / two consecutive terms / etc.*) for the same office.
- B. Chairperson**—The chairperson shall preside at all meetings, appoint committees and perform such other duties as ordered by the zoning board of appeals or township board. An alternate member shall not serve as chairperson.
- C. (Optional) Vice Chairperson**—The vice chairperson shall act in the capacity of the chairperson in his/her absence. In the event the office of chairperson becomes vacant, the vice chairperson shall succeed to this office for the unexpired term and the zoning board of appeals shall select a successor to the office of vice chairperson for the unexpired term.
- D. Secretary**—The secretary shall execute documents in the name of the zoning board of appeals and shall perform such other duties as the zoning board of appeals may determine.

(Note: The following four provisions may be included in the bylaws, or may be omitted if the zoning board of appeals prefers to use minimal bylaws and, instead, identify "who does what" through internal policies that recognize the individual township's preferences, staffing and administrative organization:

- Minutes**—*The secretary shall be responsible for a permanent record of the minutes of each meeting and shall have them recorded in suitable permanent records retained by the township clerk. The minutes shall contain a brief synopsis of the meeting, including a complete restatement of all motions and record of votes, conditions or recommendations made on any action and record of attendance.*
- Correspondence**—*The secretary shall be responsible for issuing formal written correspondence with other groups or persons, as directed by the zoning board of appeals. All communications, petitions, reports or other written materials received by the secretary shall be brought to the attention of the zoning board of appeals.*
- Attendance**—*The secretary shall be responsible for maintaining an attendance record for each zoning board of appeals member and report those records annually to the zoning board of appeals.*
- Notices**—*The secretary shall issue such notices as may be required by the zoning board of appeals. (Alternatives: zoning administrator, planning department staff, township clerk, etc.—as appropriate to the individual township.) shall oversee the issuance of such notices as may be required by the zoning board of appeals, including Open Meetings Act notices, as well as notice required for specific actions under the Michigan Zoning Enabling Act.)*

SECTION 2: Meetings

The business the zoning board of appeals may perform shall be conducted at a public meeting held in compliance with the Open Meetings Act. The zoning board of appeals may establish reasonable rules and regulations in order to minimize the possibility of disrupting the meeting.

- A. Regular Meetings**—The zoning board of appeals may schedule regular meetings each year and by resolution shall determine the time and place of such meetings. Other meetings may be held as necessary. When a regular meeting falls on a legal holiday or upon a day resulting in a conflict, the zoning board of appeals shall, if possible, select a suitable alternate meeting date in the same month as the originally scheduled meeting.

Notice of regular zoning board of appeals meetings shall be posted at the principal township office within 10 days after the zoning board of appeals' first meeting in each fiscal (**OR** "calendar") year in accordance with the Open Meetings Act.

- B. Special Meetings**—Special meetings may be called by the chairperson or upon written request to the secretary by at least two members of the zoning board of appeals (**NOTE: The zoning board of appeals may establish other methods of calling a special meeting**).

Notice of special meetings shall be given to the members of the zoning board of appeals at least 48 hours prior to the meeting. Such notice shall state the purpose, time and location of the special meeting and shall be posted in accordance with the Open Meetings Act.

- C. Notice**—Notice required for specific requests or actions will be given in accordance with the Michigan Zoning Enabling Act or other applicable statute.
- D. Public Hearings**—All public hearings held by the zoning board of appeals must be held as part of a regular or special meeting of the zoning board of appeals.
- E. Agenda**—The chairperson shall be responsible for preparing an agenda for zoning board of appeals meetings. The agenda may be modified by action of the zoning board of appeals.
- F. Quorum**—A majority of the regular members of the zoning board of appeals shall constitute a quorum for transacting business and taking official action for all matters. The zoning board of appeals shall not conduct business unless a majority of the regular members is present.
- G. Voting**—To pass or deny any dimensional (**Note: Add "and use" if use variances are permitted in the zoning ordinance**) variance, appeal or other official action required by the zoning ordinance, an affirmative vote of at least a majority of the total membership of the zoning board of appeals is required (**Note: Add the following if use variances are permitted in the zoning ordinance: "except that a vote of 2/3 of the membership shall be required to approve a use variance"**). Voting shall be by voice vote; a roll call vote shall be required if requested by any zoning board of appeals member or directed by the chairperson. Except in the case of a conflict of interest, all zoning board of appeals members, including the chairperson, shall vote on all matters.
- H. Public Records**—All meetings, minutes, records, documents, correspondence and other materials of the zoning board of appeals shall be open to public inspection in accordance with the Freedom of Information Act, except as may otherwise be provided by law.

SECTION 3: Duties of the Zoning Board of Appeals

The zoning board of appeals shall perform the following duties:

- A.** Act on applications for dimensional (**Note: Add "and use" if use variances are permitted in the zoning ordinance**) variances, appeals, interpretations, or other matters as authorized or required by the zoning ordinance and the Michigan Zoning Enabling Act.
- B.** Perform other duties and responsibilities as requested by the township board or as may be specified in the zoning ordinance.

- C. Conduct site visits as deemed necessary to evaluate an application and supporting material. Site visits shall be conducted individually.

SECTION 4: Absences, Removals, Resignations, Vacancies and Alternates

- A. To be excused, zoning board of appeals members shall notify the township supervisor, zoning board of appeals chairperson or other zoning board of appeals member when they intend to be absent from a meeting. Failure to make this notification prior to a meeting shall result in an unexcused absence.
- B. Members of the zoning board of appeals may be removed by the township board for misfeasance, malfeasance, or nonfeasance in office upon written charges and after a public hearing.
- C. A member may resign from the zoning board of appeals by sending a letter of resignation to the township board
- D. A successor shall be appointed not more than 1 month after the term of the preceding member has expired. Successors shall serve out the unexpired term of the member being replaced, with the exception of the planning commission representative, whose term shall run consecutively with the term as planning commissioner.
- E. The township board may appoint not more than two alternates to the zoning board of appeals. An alternate member may be called to serve as a member of the zoning board of appeals as provided in the zoning ordinance and the Michigan Zoning Enabling Act.

SECTION 5: Conflict of Interest

- A. Before casting a vote on a matter on which a zoning board of appeals member may reasonably be considered to have a conflict of interest, the member shall disclose the potential conflict of interest to the zoning board of appeals. Failure of a member to disqualify him or herself from a vote in which the member has a conflict of interest constitutes malfeasance in office.
- B. Conflict of interest is defined as, and a zoning board of appeals member shall declare a conflict of interest and abstain from participating in zoning board of appeals deliberations and voting on a request, when:
 - 1. An immediate family member is involved in any request for which the zoning board of appeals is asked to make a decision. "Immediate family member" is defined as (*see note below*).
(NOTE: There are definitions of "family member" and "immediate family member" in several statutes, or the township could develop its own definition of family member for the purposes of defining conflict of interest. Whatever the township decides, it should be done in consultation with the township's legal counsel, and the definition should be included in the ordinance or bylaws language.
Here are examples of some possible definitions that could be adopted or amended for the township's use, or the township may adopt another definition:
MCL 211.28: *A spouse, mother, father, sister, brother, son, or daughter, including an adopted child.*
MCL 168.2: *An individual's father, mother, son, daughter, brother, sister, and spouse and a relative of any degree residing in the same household as that individual.*
Example of a very restrictive approach: *The zoning board of appeals member's spouse, the member and member's spouse's children (including adopted) and their spouses, step-children and their spouses, grandchildren and their spouses, parents and step-parents, brothers and sisters and their spouses, grandparents, parents in-law, grandparents in-law, or any person residing in the zoning board of appeals member's household.)*

2. The zoning board of appeals member has a business or financial interest in the property involved in the request or has a business or financial interest in the applicant's company, agency or association.
3. The zoning board of appeals member owns or has a financial interest in neighboring property. *(NOTE: This is also an area open to discussion and definition. The township should consult with its local legal counsel and planning consultant to determine how "neighboring property" will be defined in the ordinance or bylaws. Here is one possible definition: "For purposes of this section, a neighboring property shall include any property falling within the notification radius for the application or proposed development, as required by the zoning ordinance or other applicable ordinance." Another, less encompassing definition could be: "For the purposes of this section, a neighboring property shall include any property immediately adjoining the property involved in the request.")*
4. There is a reasonable appearance of a conflict of interest, as determined by the zoning board of appeals member declaring such conflict.
5. The zoning board of appeals member is also a member of the planning commission or the township board and voted on the same matter as a member of the planning commission or township board. However, the member may consider and vote on other unrelated matters involving the same property.
- C. The zoning board of appeals member declaring a conflict of interest should state the nature of the conflict and whether he or she believes he or she could impartially consider the request before the zoning board of appeals. He or she should individually decide to abstain from any discussion or votes relative to the matter that is the subject of the conflict. *(If he or she prefers, the member declaring a conflict may ask the other zoning board of appeals members to decide if he or she should abstain, although this is not required. The zoning board of appeals should establish the procedure it will follow in its bylaws if this is requested.)* The member declaring a conflict may absent him/herself from the room in which the discussion takes place, unless doing so would violate his or her constitutionally protected rights to participate. He or she should not make any presentations to the zoning board of appeals as a representative of the proposal.

SECTION 6: Amendments

These bylaws may be amended at any meeting by a vote of a majority of the membership of the zoning board of appeals.

Adopted by the _____ Township Zoning Board of Appeals at a regular meeting (*list month, date and year*).