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# CITY OF ST. IGNACE

## ZONING BOARD OF APPEALS

### BY-LAWS AND RULES OF PROCEDURE

#### I. AUTHORITY

These By-laws and Rules of Procedure are adopted by the City of St. Ignace Zoning Board of Appeals (hereinafter known as ZBA), established by Section 38-51 of the City of St. Ignace Zoning Ordinance, pursuant to Public Act 110 of 2006, as amended, the Michigan Zoning Enabling Act; the Public Act 267 of 1976, as amended, the Open Meetings Act; and Section 38-53 of the St. Ignace Zoning Ordinance, Rules of Procedure.

#### II. OFFICERS

- A. Membership: The ZBA shall consist of seven members appointed by the mayor with consent of the city council, and one said member shall be a member of the city council. The member from the city council shall serve a one-year term each year. The other six members, to be citizens at large, shall serve three-year terms (City Code, Sec. 38-51). Two alternate members may be appointed for the same term as regular members (MCL 125.3601 (7)).
- B. Selection: The ZBA shall elect from its membership a chair, a vice-chair, and such other officers as it may deem necessary (City Code, Sec. 38-52). Officers shall serve one-year terms and shall be eligible for re-election. Vacancies in an office of the ZBA shall be filled at the next meeting of the ZBA. The membership shall elect one of its members to fill the vacancy until the next annual election.
- C. Duties: The chair shall preside at all meetings and shall conduct all meetings in accordance with the rules provided herein. The vice-chair shall act in the capacity of the chair in the absence of the chair. In the event of a vacancy in the office of chair, the vice-chair will assume the office of the chair and the ZBA shall select a successor to the office of vice-chair at the earliest practicable time. The secretary shall be responsible for the minutes, keeping of pertinent public records, delivering communications, reports, and related items of business of the ZBA, issuing notices of public hearings, and performing related administrative duties to assure efficient and informed ZBA operations. In the event the secretary is absent, the chair or acting chair shall appoint a temporary secretary for such meeting.
- D. 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.

### III. CITY STAFF SUPPORT

- A. The ZBA may call on any other city departments for assistance in the performance of its duties and it shall be the duty of such other departments to render such assistance to the ZBA as may be reasonably required (City Code Sec. 38-53).
- B. 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:
  - a. Processing and review of appeal applications for accuracy and completeness prior to placement on the agenda.
  - b. Preparation of the agenda for board meetings to include all appeal applications found to be complete and accurate.
  - c. Preparation and distribution of required public notices for hearings of the board.
  - d. 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).
  - e. Provide official notice of all board actions to applicants and other city staff as needed for implementation.
  - f. Other duties as needed to support the work of the board.

### IV. MEETINGS

- A. Meetings: Meetings shall be scheduled upon receipt of a complete application. The business which the ZBA may perform shall be conducted at a public meeting of the ZBA held in compliance with the Michigan Zoning Enabling Act. Public notice of the time, date, and place of the meeting shall be given in a manner as required by the Michigan Zoning Enabling Act.
- B. Meeting Notice: Notice of all meetings shall be posted at City Hall. The notice shall include the date, time, and place of the meeting. Any changes in the date or time of the meetings shall be posted and noticed in the same manner as originally established.
- C. Board Absences: In order to maintain the maximum participation of all appointed Zoning Board of Appeals members at all scheduled meetings, the following is the attendance guide and Board Member replacement policy for “excused” or “unexcused” absences:
  - a. When appointed, each Board Member should state his/her willingness and intention to attend each scheduled meeting of the Zoning Board of Appeals.
  - b. In the event of unplanned personal matters, business trips, family vacation trips, changed job requirements, sickness, or other physical disabilities that prohibit the Board Member from attending the scheduled meeting the chair should be notified as soon as possible prior to the time of the scheduled meeting of their inability to attend. The Board Member shall then be excused at the meeting.

- c. Any Board Member who is absent from either three consecutive meetings, or one-fourth of all meetings in any 12-month period, unless excused by the ZBA, shall be deemed to have resigned. The secretary of the ZBA shall notify the mayor of any such resulting vacancy, and the mayor shall fill such vacancy as soon as possible after such notifications (City Code, Sec. 38-53).
  - d. There will be no limit on the number of consecutive “excused absences” for any Board Member. However, if the Board Member is repeatedly absent for at least 50% of the yearly scheduled meetings, that member will be reported to the City Manager’s office. The City Manager will contact the Board Member in writing and question the member’s continued ability or interest to be on the ZBA.
- D. Special Meetings: A special meeting may be called by two members of the ZBA upon written request to the secretary, or by the chairperson. The business which the ZBA may perform shall be conducted at a public meeting of the ZBA 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 secretary shall provide notice to members of the ZBA by writing, telephone, or email.
- E. Quorum: In order for the Appeals Board to conduct business or take any official actions, a quorum consisting of at least four members of the ZBA shall be present. When a quorum is not present, not official action, except for the closing of the meeting may take place. The members of the ZBA may discuss matters of interest, but shall 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.
- F. Public 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 conducted by the ZBA shall be run in an orderly and timely fashion. This shall be accomplished by the following procedure:
- a. The chair of the ZBA shall announce that a public hearing will be conducted on a request.
  - b. The chair shall give a brief description of the hearing subject.
  - c. The chair shall recognize the following hearing rules:
    - i. The chair will recognize each speaker. When a speaker has the floor, he/she is not to be interrupted unless time has expired. Persons speaking without being recognized shall be out of order.
    - ii. Each speaker shall state their name and address for the record and may present written comments for the record.
    - iii. Speakers shall address all comments and questions to the ZBA and comments will be limited to the subject mater of the Public Hearing.
    - iv. Unless waived by the ZBA for a specific meeting or a specific speaker, public comment shall be limited to five (5) minutes per

adjacent property owner, and two (2) minutes per all other speakers.

- v. The chair may allow people to speak a second time after everyone has had the opportunity to speak. The Chair may request that repetitive comments be limited or abbreviated in the interest of saving time and allowing others to speak.
  - vi. The chair may establish additional rules of procedure for particular hearings as they determine appropriate.
  - vii. Normal civil discourse and decorum is expected at all times. Applause, shouting, outbursts, demonstrations, name-calling, or other provocative speech or behavior may result in removal from the hearing or an adjournment.
- d. Once all public comments have been stated, the chair shall close the hearing. Any voting member of the ZBA may initiate a motion to close the hearing.
- e. Public Hearings shall be carried out in the following format:
- i. The chair shall open the hearing,
  - ii. The applicant shall present any comments and explanation of the case. Applicant's presentation shall not be subject to the five (5) minute limitation.
  - iii. The City staff and any consultants serving the City shall present their reports.
  - iv. The hearing will be opened for public comment.
  - v. The public comment period will be closed.
  - vi. Deliberation and discussion by the ZBA.
  - vii. Disposition of the case by the ZBA.

If more than one public hearing has been scheduled for the meeting, the public hearings will be held in the order in which received.

- G. Misfeasance, Malfeasance, or Nonfeasance/Conflict of Interest: A member of the ZBA may be removed by the legislative body for misfeasance, malfeasance, or nonfeasance in office upon written charges and after public hearing. A member shall disqualify themselves from a vote in which the member has a conflict of interest. Failure of a member to disqualify themselves from a vote in which the member has a conflict of interest constitutes malfeasance in office.
- H. Motions: Motions shall be restated by the chair before a vote is taken. The name of the maker and second of each motion shall be recorded.
- I. Voting: An affirmative vote of the majority of the ZBA shall be required for the approval of any requested action or motion places before the ZBA. Voting shall ordinarily be by voice vote; provided however that a roll call vote shall be required if requested by any ZBA member or directed by the chairperson. All members of the ZBA shall vote on all matters, unless excused for a conflict of interest.

- J. Order of Business: A written agenda for all regular meetings shall be prepared as follows:
- a. Call to Order
  - b. Roll Call
  - c. Approval of Agenda
  - d. Approval of Minutes
  - e. Old Business
  - f. Public Hearings
  - g. New Business
  - h. Public Comment
  - i. Adjourn
- K. Agenda Items: For an item to be considered at a regular ZBA meeting, it must be submitted to the Zoning Administrator no later than one week prior to the next scheduled ZBA meeting.
- L. Conflict of Interest:
- a. As used here, a conflict of interest shall at a minimum include, but not necessarily be limited to, the following:
    - i. A member issuing, deliberating, voting, or reviewing a case concerning themselves.
    - ii. A member issuing, deliberating, voting, or reviewing a case concerning work on land owned by themselves or which is adjacent to property owned by them.
    - iii. A member issuing, deliberating, voting, or reviewing a case involving a corporation, company, partnership, or other entity in which they are a part owner, or any other relationship where they may stand to have a financial gain or loss.
    - iv. A member issuing, deliberating, voting, or reviewing a case which is can action which results in a pecuniary benefit to themselves.
    - v. A member issuing, deliberating, voting, or reviewing a case concerning their spouse, children, step-children, grandchildren, parents, brothers, sisters, grandparents, parents-in-law, grandparents-in-law, or members of their household.
    - vi. A member who feels, in their judgment, that their job, scope of duties, and/or position may be at risk, pending the outcome of the permitting process.
    - vii. The City Council Representative to the ZBA will abstain from any case where as a member of the City Council they made a decision which resulted in the appeal.
  - b. A member shall, when they have a conflict of interest, do the following immediately upon the first review of the case and determining a conflict exists:

- i. Declare that a conflict exists at the beginning of the meeting where the case appears on the agenda, or when the topic is brought up so that such declaration is recorded in the minutes, and
  - ii. Refrain from participating in the discussion, site inspection, or review of the case, except where specific information has been requested by the commission, and
  - iii. Refrain from casting a vote on any motion having to do with the case.
- c. Nothing in the above shall preclude a member from recusing themselves from the board due to a conflict and participating as a member of the public.

## V. MINUTES

- A. Preparation: ZBA minutes shall be prepared by the secretary. The minutes shall contain a brief synopsis of the meeting, including a complete restatement of all motions and recording votes; complete statement of the conditions or recommendations made on any action; and recording of attendance. All communications, action, and resolutions shall be attached to the minutes.

## VI. OPEN MEETINGS & FREEDOM OF INFORMATION PROVISIONS

- A. All meetings of the ZBA shall be open to the public and held in a place available to the general public. ZBA meetings shall be held in the City Council Chambers of City Hall unless otherwise noted in the meeting notice.
- B. All deliberations and decisions of the ZBA shall be made at a meeting open to the public.
- C. A person shall be permitted to address a hearing of the ZBA under the rules established in subsection 3(F), and to address the ZBA concerning non-hearing matters at the time designated for such comments.
- D. A person shall not be excluded from a meeting of the ZBA except for breach of the peace, committed at the meeting.
- E. All records, files, publications, correspondences, and other materials are available to the public for reading, copying, and other purposes as governed by the Freedom of Information Act.

## VII. ANNUAL REVIEW OF BY-LAWS

- A. The ZBA shall annually review their By-laws at their first regular meeting each year in conjunction with the election of officers.

## VIII. AMENDMENTS

- A. These rules may be amended by the ZBA by a concurring vote during any regular meeting, provided that all members have received an advanced copy of the proposed amendments at least three (3) days prior to the meeting at which such amendments are to be considered.

I HEREBY CERTIFY that the above By-laws were adopted the 11<sup>th</sup> day of April, 2022.



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Stephanie Baar, ZBA Secretary