

# Village of Ontonagon Zoning Board of Appeals

## Rules of Procedure and Bylaws

### Establishment

This is hereby created, pursuant to Act 285 of the Public Acts of 1931, as amended, a Zoning Board of Appeals of the Village, with the powers and duties as set forth in said act. (Chapter 2, Article IV, Div. 2 Sec. 2-101)

### Membership

1. The Zoning Board of Appeals shall consist of the current membership of the Village of Ontonagon Board of Trustees.

#### MEETINGS

1. Meetings may be called for a specified time and place by the Chairperson of the Zoning Board of Appeals or Village Manager upon written request of not less than four Zoning Board of Appeals members or by resolution of the Zoning Board of Appeals at the request of the Village Council.

2. No agenda item other than those specified in the call for the meeting will be considered.

#### MEETING AGENDAS

1. All items to be placed on the agenda must be submitted to the Village Clerk or Manager not less than (48) forty-eight hours prior to the meeting.

2. Items for Zoning Board of Appeals consideration may be submitted at a formal meeting during the time reserved for citizens wishing to address the Zoning Board of Appeals on non-agenda matters. The Zoning Board of Appeals may take action on such items only upon permission of the majority of the members present.

#### ORDER OF BUSINESS

The order of business for Zoning Board of Appeals meetings shall be as follows:

1. Call to order.
2. Roll call and verification of quorum.
3. Review and approval of agenda.
4. Review and Approval of the previous minutes (as applicable).
5. Public comment.
6. Reports of authorities, Zoning Board of Appeals, and committees (as applicable).
7. Administrative report (as applicable).
8. Old business to be considered by the Zoning Board of Appeals (as applicable).

9. New business to be considered by the Zoning Board of Appeals (as applicable).
10. Members' announcements and comments.
11. Adjournment.

#### MEETING ATTENDANCE

1. A majority of the full potential membership of the Zoning Board of Appeals constitutes a quorum. Once established, a quorum is defeated if less than a majority of Zoning Board of Appeals remain to conduct business.
2. Regular attendance by Zoning Board of Appeals Members is expected. It is requested as a courtesy that Members provide advance notification minimally to the Secretary or Village Manager if they intend to be absent from a meeting. Absences may be excused by the Zoning Board of Appeals for reasonable cause to be stated in the meeting minutes.
3. Member(s) shall not be absent for more than three consecutive regular meetings unless excused by the Chairperson. The Chairperson of the Zoning Board of Appeals shall notify the Village Council of any non-compliance of the above attendance criteria of a Zoning Board of Appeals member by letter, recommending removal of said member from the Zoning Board of Appeals.
4. Under extenuating circumstances such as a serious or chronic health condition, or family illness, the Zoning Board of Appeals may, by motion and simple majority vote, defer the action specified above. Said member is exempt from voting privileges in the action.

#### REMOVAL OF A MEMBER

Pursuant to notice and an opportunity to be heard, a Member of the Zoning Board of Appeals may be removed for cause by the Village Council.

#### CONDUCT OF MEETINGS INCLUDING VOTING

1. The officers of the Zoning Board of Appeals shall be a Chairperson and a Vice-Chairperson, and a Secretary.
2. The officers of the Zoning Board of Appeals shall be elected at the first November meeting of each year. elections may be held to fill vacancies.
3. The terms of office of the Zoning Board of Appeals Officers shall be one year. Officers may be re-elected.
4. Ordinary business which shall arise at their meetings shall be determined by a majority vote of the Zoning Board of Appeals members. The affirmative vote of a simple majority of the total number of seats for the Zoning Board of Appeals, regardless of vacancies or absences, shall be necessary for the adoption, or recommendation for adoption, of any plan/ordinance or amendment to a plan/ordinance.
5. The Zoning Board of Appeals has adopted the current edition of Robert's Rules of Order for conducting meetings. However, Robert's Rules are typically only consulted when questions regarding parliamentary procedure arise and they do not supersede the Zoning Board of Appeals Rules of Procedure.

6. Voice votes shall be deemed to have passed unanimously if no Member states opposition to the motion.
7. The presiding officer may call for a roll call vote as opposed to a voice vote at any time.
8. The presiding officer shall declare the result of every vote taken.
9. Zoning Board of Appeals Members must be physically present at a meeting to vote and to contribute to a quorum.
10. Motions are passed by the affirmative vote of the majority of the Zoning Board of Appeals present unless dictated otherwise by the General Law Village Act, Village Code of Ordinances, State Law, or other recognized authority.
11. Zoning Board of Appeals may elect to abstain from any vote. Abstentions are never counted as votes cast, but nevertheless may affect the result of a vote. Abstentions also do not count toward a quorum.

## CONFLICT OF INTEREST

A conflict of interest is any interest competing with or adverse to a member's primary duty of loyalty to the public interest. Pursuant to Act 196 of 1973, commonly referred to as the "State Ethics Act," Members shall not:

- divulge confidential information.
- represent their opinion as that of the Council.
- use Village personnel, property, or funds for personal gain or benefit.
- solicit or accept gifts/loans/goods/services, etc. which tend to influence their performance of official duties.
- engage in a business transaction in which they may profit from confidential information.
- engage in or accept employment/render services for a public or private interest which is incompatible/in conflict with the discharge of official duties or which may tend to impair their independence of judgment.
- participate in the negotiation or execution of contracts/making loans/granting subsidies/fixing rates/issuing permits, certificates, or other regulation/supervision relating to a business entity in which the Councilor has a financial or personal interest.

Please see MCL 15.342 and the full State Ethics Act for greater detail. Also see Act 317 of 1968 regarding prohibitions on Councilors from pursuing certain public contracts and Act 566 of 1978 regarding incompatible public offices.

1. Zoning Board of Appeals are obligated to disclose any real, potential, or perceived conflict of interest pertaining to themselves and/or other Members as soon as it is known to them. Such real, potential, or perceived conflicts of interest may involve a Member, a member of their immediate family or household, their employer or employee, or any entity in which the Member or other person identified above has a personal financial interest. Ideally this is done in advance of any meeting for which an agenda item may represent a conflict of interest for one or more Members. Some example scenarios are given below: a. A Zoning Board of Appeals contacts the Village Manager or Chairperson prior to a meeting and states their intention to abstain from voting on a

particular agenda item, effectively recusing themselves due to a real, potential, or perceived conflict of interest.

b. A Zoning Board of Appeals contacts another Member prior to a meeting and inquires if the second Member may have a conflict of interest regarding a particular agenda item.

c. A Zoning Board of Appeals contacts the Village Manager or Chairperson prior to a meeting and inquires if another Member may have a conflict of interest regarding a particular agenda item. The Village Manager or the Zoning Board of Appeals Chairperson then follows up with the Member who may have a conflict of interest.

2. If the issue of a real, potential, or perceived conflict of interest is raised and the Zoning Board of Appeals who may have a conflict of interest (aka the Member in question) does not recuse themselves from voting, any other Zoning Board of Appeals may motion for the Member in question to be excused (prohibited) from voting on the particular agenda item in question. If such a motion is seconded and 2/3 of the Members present, not including the Member in question, vote affirmatively to excuse the Zoning Board of Appeals in question from voting, then the Zoning Board of Appeals in question will be recorded as abstaining on the particular agenda item in question.

3. A Zoning Board of Appeals Member who has expressed their intention to abstain from voting or has been excused from voting by the remainder of the Zoning Board of Appeals due to a real, potential, or perceived conflict of interest may not participate in the discussion pertaining to the particular agenda item in question.

4. An interest that a Zoning Board of Appeals Member shares in common with the general public interest does not constitute a conflict of interest.

5. No Zoning Board of Appeals Member may vote on a matter which they have a proprietary or financial interest in or which they may gain a financial benefit from.

#### PUBLIC PARTICIPATION

1. Members of the public are invited and encouraged to attend all meetings of the Zoning Board of Appeals.

2. Members of the public shall have the opportunity to address the Zoning Board of Appeals at every meeting during the designated public comment period(s). Persons addressing the Zoning Board of Appeals shall state their name, residential address, and affiliation with the Village (if applicable). The duration allotted to individual speakers is limited to three (3) minutes per individual.

3. During public hearings, public comment shall be limited to the subject of the public hearing

#### KEEPING OF RECORDS

1. A writing prepared, including meeting minutes, owned, used, in the possession of, or retained by a Zoning Board of Appeals in the performance of an official function shall be made available to the public in compliance with the Freedom of Information Act, 1976 PA 442, MCL 15.231 to 15.246, as amended.

2. The business that the Zoning Board of Appeals may perform shall be conducted at a public meeting of the Zoning Board of Appeals held in compliance with the Open Meetings Act, 1976 PA 267, MCL 15.261 to 15.275, as amended. Public notice of the

time, date, and place of a regular or meeting shall be given in the manner required by that act.

#### DUTIES OF THE ZONING BOARD OF APPEALS

This Section shall not be construed to diminish the Zoning Board of Appeals' authority and duties imposed by the Michigan Planning Enabling Act, Public Act 33 of 2008 by other laws or regulations. The Zoning Board of Appeals shall perform the following duties:

- a) Adopt bylaws for the transaction of business including the election of officers and rules of procedure consistent with the Michigan Planning Enabling Act, Public Act 33 of 2008.
- b) Elect a chairperson from its members and create and fill other offices as it considers advisable. The term of office of each officer shall be one year with the opportunity for reelection as specified in the Bylaws.
- c) Keep a public record of its resolutions, transactions, findings, and determinations.
- d) Prepare forms, rules, procedures, and guidelines for the proper administration and enforcement of the Ordinance which are to be forwarded to the Village Council for action prior to implementation.
- e) Conduct public hearings on matters requiring a public hearing, or which in the Zoning Board of Appeals' discretion warrant a public hearing, prior to action.
- f) Shall make and approve a master plan as a guide for development within the Village, or areas outside the Village boundaries that in the Zoning Board of Appeals' judgment are related to the planning of the Village as provided for in the Michigan Planning Enabling Act, Public Act 33 of 2008.
- g) Make a comprehensive review and recommend changes to the Master Plan and/or Zoning Ordinance as deemed necessary.
- h) Review and take appropriate action on all applications for zoning text change, rezoning, and conditional use permits, and the review of site plans.
- i) Review and advise the Village Council on all applications for amendments to the Ordinance and on any amendments proposed by the Zoning Board of Appeals.
- j) Advise and make recommendations to the Village Council concerning future amendments, changes, additions, or departures from the Ordinance.
- k) If the Zoning Board of Appeals has adopted a master plan, the Zoning Board of Appeals shall review and make recommendations on plats before action by the Village Council under section 112 of the Land Division Act, 1967 PS 288, MCL 560.105, as amended.

#### TRAINING

An annual training of related education of 2.0 Hours is recommended for Redevelopment Ready Community Certification status for all Zoning Board of Appeals Members. A list of Training Programs is available to all Council and Zoning Board of Appeals Members. Contact the Village Manager to register for a program.

#### CONTROLLING AUTHORITY

1. The Zoning Board of Appeals Rules of Procedure shall be followed unless superseded by the General Law Village Act, Village Code of Ordinances, State Law or other recognized authority.

A motion was made by Rebholz, second by Seid (CARRIED) to adopt the bylaws of the Village of Ontonagon Zoning Board of Appeals.

Aye:

Nay: None

Motion: Carried

Date: