



ZONING BOARD OF APPEALS (ZBA) BYLAWS

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**CITY OF LUDINGTON
ZONING BOARD OF APPEALS BYLAWS**

A. PURPOSE:

The purpose of the City of Ludington Zoning Board of Appeals is to hear only those matters that it is authorized to hear by the Michigan Zoning Enabling Act and the City of Ludington unified Development Ordinance. Per local Ordinance, the City of Ludington Zoning Board of Appeals shall deal with Administrative Appeals, Interpretations of the Zoning Ordinance, and Variances.

B. BOARD COMPOSITION & QUALIFICATIONS:

The Zoning Board of Appeals shall consist of seven members, to be appointed by the City Council upon recommendation by the Mayor for staggered terms of three years from the date of appointment, and extending until a successor shall be appointed. One member of the Zoning Board of Appeals shall be a member of the Planning Commission per City code. Vacancies shall be filled by appointment for unexpired terms. The Zoning Board of Appeals shall elect its own Chairman, vice chairman, and secretary from among its membership. Members of the Zoning Board of Appeals must be electors of the City. The City Council may appoint two alternate members to the Zoning Board of Appeals for staggered terms of three years.

C. MEETINGS:

Meetings of the Zoning Board of Appeals shall be held at the call of the Zoning Administrator and shall be held at Ludington City Hall located at 400 S Harrison Street, Ludington, MI 49431.

1. Posting and Notice Requirements:

- a) For all Zoning Board of Appeals meetings, per the Michigan Open Meetings Act, a public notice stating the date, time, place and reason of the meeting shall be posted at City Hall at least 18 hours before the meeting. If the posting area is not open to the public for any part of the 18 hours prior to the meeting, the notice must be posted on the exterior doors of City Hall. A public notice shall also be placed on the City's website.
- b) If a public hearing is required per Michigan Zoning Enabling Act 110 of 2006, the Zoning Administrator clerk shall publish notice of the hearing in a newspaper of general circulation in the local unit of government not less than 15 days before the date of the hearing. The public hearing notice shall also be posted at City Hall and on the City's website. Should a mailing be required, per the Zoning Enabling Act, the Zoning Administrator's clerk will mail the notice for the hearing to all people whom real property is assessed within 300 feet of the property that is the subject of the request and to the occupants of all structures within 300 ft. of the subject property regardless of whether the property or structure is located in the Zoning jurisdiction. The notice shall:
 1. Describe the nature of the request
 2. Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used.
 3. State when and where the request will be considered
 4. Indicate when and where written comments will be received concerning the request

See section 125.3103 of the Michigan Zoning Enabling Act for additional information related to notices and mailings.

- c) Posting requirements may change should the Michigan Open Meetings Act be amended

relating to posting requirements.

2. Decision-Making:

All decisions must be made at a meeting open to the public per the Michigan Open Meetings Act (OMA). The use of e-mail, texting or other forms of electronic communications among board members during the course of an open meeting or outside a meeting that constitutes deliberations towards decision-making or actual decisions violates the OMA. Please see OMA MCL 15.263 Section 3.2 and Section 3.3 for additional information.

3. Agendas:

- a) Preparations: The Zoning Administrator's clerk, shall prepare an agenda for each meeting of the Zoning Board of Appeals.
- b) Distribution: Agendas and all background material will be emailed to ZBA board members at least 18 hours prior to the meeting. A paper packet may be requested.

4. Minutes of Meetings:

- a) The Zoning Administrator's clerk, shall act as recording secretary to the Zoning Board of Appeals, including recording the minutes, publishing legal notices, and providing notices to property owners and others as required by law. Minutes will be kept in the English language and shall include: the date, time, place, members present, members absent, all findings, conditions, facts, and other relevant factors, including the vote of each member upon each case. The minutes must also include all roll call votes taken at the meeting.
- b) Unapproved minutes of meetings will be available for public inspection within eight (8) business days after the meeting to which the meetings refer.
- c) Approved minutes will be available for public inspection within five (5) business days after the meeting at which the minutes were approved by the Zoning Board of Appeals board.

D. MEETING PROCEDURES:

1. Meetings to be Public:

All meetings of the Zoning Board of Appeals shall be open to the public and the public shall have a reasonable opportunity to be heard under such rules and regulations as the Zoning Board of Appeals may prescribe.

2. Order of Business:

The Zoning Administrator's clerk, in accordance with the following order of business shall prepare an agenda for each Zoning Board of Appeals meeting:

- Call to Order
- Roll Call
- Approval of Agenda
- Public Comments
- Approval of Minutes
- Public Hearing
- Old Business
- New Business
- Adjournment

a) Motions:

- i. No motion shall be debated unless it has been seconded
- ii. The initiator of a motion may withdraw any motion at any time before it has been adopted. However, if the motion has been seconded, the seconding party must also consent to withdrawal

- iii. All motions, resolutions and amendments or substitutions thereto, and the vote thereon, shall be entered in the minutes unless withdrawn
- iv. When an appeal is taken from a decision by the Chair, the member taking the appeal shall be allowed to state his or her reason or doing so. The questions shall then be immediately put in the following (or substantially similar) form-“Shall the ruling of the Chair be sustained?”

3. Quorum:

A majority of the total membership of the board, four (4) members, shall comprise a quorum. In the absence of a quorum, a lesser number may adjourn any meeting to a later time or date, and in the absence of all members, the Zoning Administrator may adjourn any meeting for not longer than one week.

Final disposition of any matter of the ZBA shall require a 2/3 vote (at least 4 votes) of the entire board.

4. Presiding Officer:

The presiding officer, hereinafter “Chair”, shall be responsible for enforcing the Rules of the Board as contained herein.

The Chair. It shall be the duty of the Chair to preside at all meetings of the Zoning Board of Appeals, to preserve order and to decide all questions of order and procedure subject to appeal to the board.

E. VOTING AND DISCUSSION:

1. Roll Call:

In all roll call votes, the Recording Secretary shall call the names of the members of the Zoning Board of Appeals.

2. Results of Voting:

In all cases where a vote is taken, the Chair shall declare the result.

3. Duty to Vote:

Whenever a question is put before the Zoning Board of Appeals by the Chair, every board member shall vote, provided however, that no board member shall be required to vote if:

- a) That board member shall have a conflict of interest and shall state his/her conflict of interest and determined to be a conflict by vote of the Zoning Board of Appeals board.
- b) Excused by vote/approval of at least three Zoning Board of Appeal Members.

If a board member is precluded from voting pursuant to a conflict of interest, that member shall refrain from participating in the discussion on the issue.

4. General Consensus:

General consent or consensus may be used to give direction and the minutes should indicate that a majority consented.

F. PUBLIC PARTICIPATION:

1. General:

Each Zoning Board of Appeals Agenda shall provide time for public audience participation, as requested and limited herein. Members of the public may comment only during the public comment portions of the meeting. Public comment shall not be in order except during designated times or as approved by the Chair. Any person shall have the right to record or broadcast the proceedings of the Zoning Board of Appeals meetings, but they shall not utilize the

electrical outlets or internet bandwidth of the City without the prior permission of the Chair and City Manager.

- a) Specific answers to citizens' questions need not be given by the Chair or other City officials at the time requested, but may, at the City's discretion, be followed up later.

2. Persons Addressing the Board:

Members of the public at the meeting shall not speak unless recognized by the Chair. Prior to addressing the board, members of the public shall state their name and address and, if appropriate, group affiliation for the record.

3. Conduct of Public Hearings:

Unless otherwise required by State or local law, public hearings shall be opened by declaration of the Chair at the time stated in the public notice of the hearing. If no members of the public desire to speak or no members of the public are present, then the Chair may declare the hearing closed and take up consideration of the next agenda item. Members of the public shall be limited to speaking for a maximum of three (3) minutes during any public hearing. A person representing a group of citizens and speaking on behalf of them shall be allowed up to five (5) minutes to address the board during a hearing. The Chair shall notify the speaker when time is up.

4. Requests to Speak During Regular Agenda Items:

Any person wishing to speak to an item included on the printed meeting agenda may do so if recognized by the Chair. Upon recognition, they will be required to state their name and address and will be allowed up to three (3) minutes to address the board. A speaker representing a group or association present at the meeting may be allowed up to five (5) minutes to address the board. No citizen shall speak for more than three (3) minutes during either public comment periods. If the application of such time limits has the effect of completely denying one or more persons the ability to address the board, such persons shall be given at least two (2) additional minutes each to address the board. The board may suspend the time limitation when warranted. The board may also, in its discretion, limit public comments to new information or matters not fully addressed at the meeting or any previous meeting regarding the agenda item at issue. When all persons who wish to address that agenda item have been heard, the Chair shall announce that public comment on the agenda item is concluded. Zoning Board of Appeal Members shall then discuss the agenda item, and no further public comment shall be entertained.

- a) In addition to the above-mentioned public comment period, as well as the second public comment period, the Chair may permit limited public comment for particular agenda items.
- b) All public comments shall be directed to and through the Chair. No member of the public shall directly address any other member of the public or any other City Official.
- c) All public comments shall be related to City matters. Public comments must be relevant and germane to the business and functions of the City.
- d) No citizen can "transfer", reserve or delegate any public comment time to any other person.
- e) The Chair has the authority to extend the comment period for citizens at the Chair's discretion.
- f) The Secretary shall be responsible for timing the length of public comments and informing the Chair when a citizen has thirty seconds remaining and when time has expired.
- g) No person shall be allowed to speak more than once on the same matter at the same meeting. Person purporting to speak to the same general subject matter in his and her personal and representative capability shall be recognized only once.

5. Requests to Speak Second Public Comment Section:

Members of the public shall have an opportunity, under the second Public Comment section, to address the Board for no more than three (3) minutes on any item that is not on the approved agenda. All rules of conduct still apply from item 5a-5g.

6. Deviations from Public Participation Rules:

Under unique or desirable circumstances, upon consensus of the Board, the Chair may recognize a member of the audience who shall be permitted to address the Board at a time other than audience participation. However, all other rules as provided herein shall apply.

7. Disorderly Conduct at Meetings:

Persons addressing the Zoning Board of Appeals shall make responsible comments and shall refrain from making personal, impertinent, slanderous, profane remarks or obscene speech or gesture. No person shall disrupt a meeting of the Zoning Board of Appeals. The Chair may call to order any person who is being disorderly by speaking when not recognized by the Chair or otherwise disrupting the proceeding by failing to be germane, by speaking longer than the allotted time, or by speaking vulgarities. Such persons shall thereupon be seated until the chair shall have determined whether the person is in order. If a person so engaged in presentation shall be called out of order, he or she shall not be permitted to speak at the same meeting except upon special leave by the Board. If the person shall continue to be disorderly and disrupt the meeting, the Chair may order the Police Department to remove the person from the meeting.

- a) Members of the public shall not talk among themselves during a meeting of the Zoning Board of Appeals in a volume greater than a whisper, and upon being asked by the Chair to quiet down, shall do so.

G. AMENDMENTS TO THE RULES:

The rules of the Zoning Board of Appeals may be altered or amended by a majority vote of the entire City Council. However, the Zoning Board of Appeals may establish its own rules and procedures if it elects to do so by adoption of a Resolution.