

CITY OF DAVISON

ZONING BOARD OF APPEALS BY-LAWS

Section 1.0 AUTHORITY

The City of Davison Zoning Board of Appeals adopts these rules pursuant to Public Act 267 of 1976 (as amended) known as the Open Meetings Act, and Public Act 110 of 2006 (as amended) known as the Michigan Zoning Enabling Act.

Section 2.0 OFFICERS

- 2.1 **Selection.** At the first regular meeting in each calendar year, the Zoning Board of Appeals shall elect from its membership a chairperson and vice-chairperson. The City shall provide the secretary of the Zoning Board of Appeals. All officers shall be eligible for re-election.
- 2.2 **Tenure.** The chairperson and vice-chairperson, shall take office immediately following their election and shall hold office for a term of one year or until their successors are selected and assume office.
- 2.3 **Duties.** The chairperson shall preside at all meetings. The vice-chairperson shall act in the capacity of chairperson in the absence of the chairperson; and in the event the office of the chairperson becomes vacant, the vice-chairperson shall succeed to this office for the un-expired term and the Zoning Board of Appeals shall select a successor to the office of vice-chairperson for the un-expired term. If both the chairperson and vice-chairperson are absent the Zoning Board of Appeals members present, by a majority vote shall select an acting chairperson. The secretary shall be responsible for the preparation of minutes, keeping of pertinent public records, delivering communications, petitions, reports and related items of business of the Zoning Board of Appeals issuing notices of public hearings and performing related administrative duties to assure efficient and informed Zoning Board of Appeals operations. In the event the Secretary is absent, the Chairperson or acting chairperson shall appoint a temporary secretary for such meeting.

Section 3.0 MEETING

- 3.1 **Meeting Notices.** All meetings shall be posted at the City Hall according to the Open Meeting Act. The notices shall include the date, time and place of the meeting.
- 3.2 **Regular Meetings.** Meetings of the Zoning Board of Appeals shall be held monthly, except in the event that the Board Chairperson cancels a meeting when there are no agenda items to be discussed. Said meetings to be held on the dates and time as approved by resolution of the Board in the City Hall or other announced site. The dates and times shall be posted at the City Hall. Any changes in the date, time or place of the regular meetings shall be posted and noticed in the same manner as originally established. When the regular meeting day falls on a legal holiday, the Zoning Board of Appeals shall select a suitable alternate day in the same month, in accordance with the Open Meeting Act.
- 3.3 **Special Meetings.** Special meetings shall be called at the request of the Chairperson. 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 notify the Zoning Board of Appeals members of a special meeting.
- 3.4 **Public.** All regular and special meetings, hearing, records and accounts shall be open to the public in accordance with the Freedom of Information Act, P.A. 443 of 1976 (MCLA 15.231 et seq.).

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- 3.5 **Quorum.** In order for the Zoning Board of Appeals to conduct business or take any official action, a quorum consisting of the majority of the voting members of the Commission 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 Zoning Board of Appeals may discuss matters of interest, but can take no action until the next regular or special meeting. All public meetings 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.
- 3.6 **Hearings (Public).** Public hearings shall be scheduled and due notice given in accordance with the provisions of the City's Zoning Ordinance and/or Public Act 110 of the Public Acts of 2006, as amended. Public hearings conducted by the Zoning Board of Appeals shall be run in an orderly and timely fashion. The Zoning Board of Appeals may adopt a specific format.
- 3.7 **Motions.** The chairperson shall restate motions before a vote is taken. The name of the maker and supporter of the motion shall be recorded.
- 3.8 **Voting.** The concurring vote of a majority of the Zoning Board of Appeals shall be necessary to reverse an order, requirement, decision or determination of an administrative official or body, or to decide in favor of the applicant a matter upon which the Zoning Board of Appeals is required to pass under an Ordinance, or to effect a variation in an Ordinance except that a concurring vote of two-thirds (2/3) of the members of the Zoning Board of Appeals shall be necessary to grant a variance from uses of land (more commonly known as a "use variance") permitted in an Ordinance. The voting requirements for granting a use variance is higher than the requirements for granting a nonuse variance (a "dimensional variance"), which requires a majority vote of the Zoning Board of Appeals membership. Voting shall be by a voice vote; and it shall be by a roll call vote. All members of the Zoning Board of Appeals including the chairperson shall vote on all matters, but the Chairperson shall vote last. Any member may be excused from voting only if that person has a bon-a-fide conflict of interest as recognized by the majority of the remaining members of the Zoning Board of Appeals. Any member abstaining from a vote shall not participate in the discussion of that item.
- 3.9 **Order of Business: Agenda.** A written agenda for all regular and special meetings shall be prepared as followed. The order of business shall be:
- Call to order by Chairperson
 - Roll call of members
 - Approval of agenda
 - Approval of minutes from previous meeting
 - Public comments on agenda items (other than public hearing)
 - Communications from staff or members
 - Unfinished business from previous meeting
 - Public Hearings
 - Explanation of request by staff
 - Presentation of request by applicant
 - Presentation of staff report
 - Open hearing to public comment
 - Close hearing to public comment
 - Questions to applicant and staff, from ZBA members
 - Close public hearing
 - Decision from ZBA on applicant's request
 - New Business
 - Public comments on items not on agenda
 - Adjourn

- 3.10 **Zoning Board of Appeals Action.** Action by the Zoning Board of Appeals on any matter on which a hearing is held shall not be taken until the hearing has been concluded, and sufficient time has been given to discuss everything pertinent to any action.
- 3.11 **Parliamentary Procedure.** Section 1264.04 of the Zoning Ordinance shall govern parliamentary procedure in Zoning Board of Appeals meetings. Generally, Roberts Rules of Order shall guide the procedures of the Zoning Board of Appeals.
- 3.12 **Notice of Decision.** A written notice containing the decision of the Zoning Board of Appeals will be sent to petitioners and originators of a request.

Section 4.0 MINUTES

The Secretary of the Board shall prepare the Zoning Board of Appeals minutes. 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 annually deposited with the City Clerk.

Section 5.0 OPEN MEETINGS AND FREEDOM OF INFORMATION PROVISIONS

- 5.1 All meetings of the Zoning Board of Appeals shall be open to the public and held in a place available to the general public.
- 5.2 All deliberations and decisions of the Zoning Board of Appeals shall be made at a meeting open to the public.
- 5.3 A person shall be permitted to address a hearing of the Zoning Board of Appeals under the rules established in subsection 3.6, and to address the Zoning Board of Appeals concerning non-hearing matters under the rules established in Section 3.9 to the extent that they are applicable.
- 5.4 A person shall not be excluded from a meeting of the Zoning Board of Appeals except for breach of the peace, committed at the meeting.
- 5.5 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.

Section 6.0 AMENDMENTS

These rules may be amended at any regular or special meeting by the Zoning Board of Appeals by a concurring vote pursuant to subsection 3.8, provided that all members have received an advanced copy of the proposed amendments at least 10 days prior to the meeting at which such amendments are to be considered.

THESE BY-LAWS AND RULES OF PROCEDURES ARE ADOPTED THIS 22nd DAY OF AUGUST, 2007, CITY OF DAVISON ZONING BOARD OF APPEALS.
