

CITY OF PORTAGE ZONING BOARD OF APPEALS

RULES OF PROCEDURE

Section 1: Convening of Meeting; Quorum:

The Chairperson, or in his/her absence or at his/her direction, the Vice-Chairperson, shall, at the time fixed for meeting, take the chair for convening the Board. The presence of four (4) members at the meeting shall constitute a quorum for the transacting of business. The Chairperson shall summarize the rules of order and those portions of the Zoning Ordinance pertaining to the Board's operations. A total of four (4) affirmative votes will be necessary to approve a request for a variance or temporary use. (This shall be the case regardless of the number of members present.) A total of five (5) affirmative votes will be necessary to approve a request for a use variance.

Section 2: Order of Business:

The business of all regular meetings shall be transacted as far as possible in the following order:

1. Call to Order
2. Pledge of Allegiance
3. Roll Call
4. Approval of Minutes
5. Old Business
6. New Business
7. Statements of Citizens
8. Adjournment

Section 3: Reading of Minutes:

Unless a reading of the minutes of a meeting is requested by a member of the Board, such minutes may be approved or corrected without reading if the Director of Community Development or his/her designee has previously furnished each member with a true copy thereof.

Section 4: Agenda for Meeting:

The Director of Community Development, or his/her designate, shall prepare an agenda of the business to be considered at each regular Board meeting. No business shall be considered by the Board unless placed upon the agenda for the meeting not later than 5:00 p.m. on Monday, ten working days preceding the meeting. A total of eight items will be accepted for any one meeting (old and new business items), and will be placed on the agenda in the order received. Any number of requests over eight will be placed on the next regularly scheduled meeting agenda (See also Section 6).

Section 5: Regular Meeting; time- place:

The Board shall routinely convene on the second Monday of each month at 7:00 p.m. in the City Council Chambers. However, when the day fixed for any regular meeting falls upon

a National Holiday, or the eve of a National Holiday, or upon any regular or special election day, or when the Board may determine to hold such meeting at a different hour or day, the notice of the time and place of the changed meeting date shall be given by mail to all concerned at least five (5) days prior to the meeting and at least one (1) notice shall be posted in or at the entrance to the Council Chambers in Portage City Hall.

Section 6: Special Meetings; Notices Required:

- A. Special meetings may be called, as may be necessary, by the Director of Community Development when the presiding Officer is advised that:
1. An applicant requests a special meeting, submits the required special meeting fee and four (4) or more Board members can schedule to attend (five (5) or more Board members if the application involves a use variance); or
 2. Two (2) or more applications are received after a regular meeting agenda is full and before the normal closing date of that meeting agenda, and four (4) or more Board members can schedule to attend (five (5) or more Board members if the application involves a use variance). Normal variance application fees apply in this case.
- B. The Chairperson, or any four (4) members of the Board, may on written request to the Director of Community Development, call a special meeting.
- C. No more than eight items will be placed on any special meeting agenda.

Section 7: Officers of the Board:

- A. The officers of the Board shall consist of a Chairperson, Vice-Chairperson and Secretary. Said officers shall be elected by the Board from among its members at the regularly scheduled June meeting and shall serve for a period of one year, or until their successors are elected.
- B. Presiding Officer; Powers and Duties: The Chairperson shall be the presiding officer of the Board. He/she shall state every request coming before the Board, announce the decision of the Board on all matters, and decide all questions of order; provided, however, that upon an appeal to the Board, a majority vote of the Board shall conclusively determine such question of order. He/she shall vote on all questions. He/she shall, at the request of the a Board member, divide any question if such question in his/her opinion is subject to division, and he/she shall submit it as divided. He/she shall provide all in attendance the opportunity to be heard, and will read all correspondence submitted to the Board.
- C. Vice-Chairperson; Powers and Duties: In the event the office of the Chairperson shall become vacant by death, resignation or otherwise, the Vice-Chairperson shall become Chairperson for the unexpired term of this office. In the absence of the Chairperson or due to his/her inability to discharge the duties of this office, such duties shall for the time being devolve upon the Vice-Chairperson.

D. Secretary; Powers and Duties: In the event the Vice-Chairperson is for like reason, unable to act, such duties shall for the time being devolve upon the Secretary pursuant to Section 8, if a time limit is set for Statement of Citizens, the Secretary shall keep the time and advise the presiding officer. Any communications received by the Board will be read by the Secretary during the applicable public hearing. The Secretary shall perform other duties as directed by the Chairperson.

Section 8: Statements of Citizens:

All citizens shall have a reasonable opportunity to be heard for a reasonable length of time in the course of each meeting after standing, being recognized by the presiding officer, and stating their name and address. The presiding officer may set a reasonable time limit on the length of time a citizen or any other person may address the Board if, in the presiding officer's judgment, such time limit will aid in the orderly and efficient administration of the Board's business. If such time limit is imposed by the presiding officer, the Board shall accept written materials from any citizen or person. If it appears there is a number of people who wish to make a statement on a business item, they shall be encouraged by the presiding officer to elect a spokesperson or limit their statements to only providing the Board with new information.

Section 9: Rules of Debate:

- A. There shall be no debate or discussion of any issue prior to the proper introduction of said issue.
- B. When a motion is under debate, only the following resolutions shall be in order;
 - 1. Motion to adjourn.
 - 2. Motion to take a recess.
 - 3. Motion to lay on the table.
 - 4. Motion for the previous question.
 - 5. Motion to postpone to a day certain.
 - 6. Motion to refer to a committee of the Board.
 - 7. Motion to amend or substitute.
 - 8. Motion to postpone indefinitely.
- C. A motion to adjourn and a motion to lay on the table shall always be in order and without debate.
- D. After a motion is made to close debate, the presiding officer shall poll the Board on the question of closing the debate and put the principal question to an immediate vote of the Board. If the yeases prevail, the presiding officer shall immediately poll the Board on the principal question, or questions, without further debate.
- E. All votes shall be taken by yes and no, and be entered upon the journal to show the names of those voting in the affirmative and in the negative, or abstaining except if the

vote is unanimous, the record need merely so state.

Section 10: Suspending, Amending Rule:

- A. These rules may be suspended by a vote of five (5) members of the Board present and voting.
- B. These rules may be amended by a vote of five (5) members of the Board present and voting.

Section 11: Conflict of Interest:

- A. A conflict of interest is any interest by a member in an issue before the board that is not held by the community at large and that could bias the member's opinion on that issue, or that could reasonably be perceived to have that effect.
- B. Among the examples of a conflict of interest are those in which the member:
 - 1. Has family or close friends involved in the issue;
 - 2. Has a monetary interest in the issue;
 - 3. Lives within 300 feet of the property involved; or
 - 4. Stands to gain or lose from the resolution of the issue.
- C. If a member has at least a possible conflict of interest, the member should disclose the nature of it at the meeting in question, then announce whether he or she believes that it is in fact a conflict.
- D. If the member's decision is that it is in fact not a conflict, the board may, by majority vote, rule that it is in fact a conflict.
- E. If a conflict is either self-declared by a member or so determined by the board, that member shall have no involvement in the discussion in any capacity or voting on the issue, and shall leave the room during the time the issue is discussed and voted upon.
- F. Failure of a member to reveal a conflict of interest shall constitute malfeasance of office.
- G. None of the above shall preclude a member from submitting his or her own request and if he or she feels it necessary, presenting it to the board. Where a member of the Zoning Board of Appeals is an actual petitioner or person requesting action of the board, it is recommended that the member not present the matter to the board for consideration and not be involved in discussions.

Section 12: Ex Parte Contact:

If a member of the Board has ex parte contact with an applicant who has a request before the board, the member shall disclose such contact to the board at the public hearing or deliberation of the matter.

Section 13: Attendance:

Board members who will be absent shall, if possible, notify the Department of Community Development prior to meeting.

Section 14: Governing Rules of Order:

Roberts Rules of Order may apply to all other items not provided for in these rules, except where they may be inconsistent with said rules.

Section 15: Appeals: Hearings:

- A. An appeal may be taken to the Zoning Board by any person affected by a decision of the Director of the Department of Community Development. The appeal shall be filed with the Director of the Department of Community Development within ten (10) working days of the Director's decision. The appeal shall be filed on a form provided by the Department of Community Development. The grounds for the appeal must be documented at the time of filing. The ten (10) day appeal period shall begin from the date said decision is written and transmitted to the affected person.
- B. Agenda items, once brought before the Board, may not be resubmitted for consideration or appeal unless a substantial change in circumstances shall have occurred. The concurring vote of a simple majority of members shall be necessary to determine the significance of the change.
- C. If the Zoning Board of Appeals denies a request for a variance, the Board may, if it chooses, grant a variance for a lesser degree if moved and voted upon at the same meeting as the denial. If the Board does not take such action, then the request may not be resubmitted for consideration unless a substantial change in circumstances has occurred. The concurring vote of the simple majority shall be necessary to determine if a substantial change in circumstance has occurred.

Section 16: Board Authority:

The Board shall exercise such powers and perform such duties as are authorized and provided by the statutes and laws of the State of Michigan, and particularly Act 207 of 1921 as amended.

Approved: October 8, 1973
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