

City of Swartz Creek
**ZONING BOARD OF APPEALS
RULES OF PROCEDURE**

1. AUTHORITY

These rules of procedures are adopted by the City of Swartz Creek Zoning Board of Appeals, herein referred to as the ZBA, pursuant to Public Act 110 of 2006, as amended, the Michigan Zoning Enabling Act and Public Act 267 of 1976, as amended, the Open Meetings Act.

2. OFFICERS

2.1 Selection. At the March meeting, the ZBA shall select from its membership a chairperson, vice-chairperson, and secretary who shall serve for a twelve month period and who shall be eligible for reelection. Officers shall assume their respective officers and duties immediately.

2.2 Duties. A chairperson shall preside at all meetings and shall conduct all meetings in accordance with the rules provided herein. The vice-chairperson shall act in the capacity of the chairperson in the absence of the chairperson and shall succeed to the office of chairperson in the event of a vacancy in that office, in which case the ZBA shall select a successor to the office of vice-chairperson at the earliest practicable time. The secretary shall be responsible for signing the official minutes of the meeting. An individual other than a Planning ZBA member shall be appointed the recording secretary by the City Council and shall be responsible for the preparation of minutes, keeping pertinent public records, delivering communications, petitions, reports, and related items of business of the Commission, 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 chairperson or acting chairperson shall appoint a temporary secretary for such meeting.

2.3 Tenure. The officers shall take office at the meeting at which they are elected. They shall hold their office for a term of one year beginning at the annual meeting in March, or their successors are elected and assume office.

3. MEETINGS

3.1 Meeting Notices. All meetings shall be posted at the City of Swartz Creek City Offices according to the Open Meetings Act. The notice shall include the date and time of the meeting.

3.2 Annual Meeting. The ZBA shall meet every March to select officers and see to any other business. This meeting shall be held at a date and time conducive to a regular meeting.

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- 3.3 Regular Meeting.** Regular meetings of the ZBA shall be held as needed, on the third Wednesday of the month in the City Hall Council Chambers at 8083 Civic Drive. The need for a meeting shall be based upon the submission of an application for an appeal, variance, or interpretation; or by the initiation by the Chairperson or City staff. The specific dates and times shall be posted at City Hall and a notice should be published in accordance with the Open Meetings Act. Any changes in the date or time of a regular meeting shall be posted within 3 days after the meeting at which the change is made. When a regular meeting date falls on or near a legal holiday, the ZBA shall select suitable alternate dates in the same month, in accordance with the Open Meetings Act.
- 3.4 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 posted at least 18 hrs before the meeting and the Secretary shall ensure that written notice of a special meeting is provided to ZBA members not less than 48 hours in advance of the meeting.
- 3.5 Quorum.** In order for the ZBA to conduct business or take any official action, a quorum consisting of the majority of the members of the ZBA 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 ZBA may discuss matters of interest, but can 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.
- 3.6 Hearings.** Hearings shall be scheduled and due notice given in accordance with the provisions of the acts and ordinance cites 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 public hearing will be opened.
 - B. Presentation by applicant.
 - C. Staff reports if any shall be presented.
 - D. The public shall be invited to speak on the matter. Each speaker will be asked to give their name and address for the record. Each speaker shall be limited to 5 minutes.
 - E. Following the presentation by applicant, the ZBA will question staff and the applicant.

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F. Following the public comment the ZBA will close the public hearing portion of the meeting. An affirmative motion shall be made on the matter and ZBA members will discuss the matter, and may ask questions of the staff, applicant, or members of the public, and take whatever action is appropriate.

3.7 **Motions.** If possible, motions in the form of a resolution shall be pre-typed in the affirmative and included as a supplement to the agenda. Motions shall be restated by the Chairperson before a vote is taken. The name of the maker and supporters of the motions shall be recorded.

3.8 **Voting.** An affirmative vote of the majority of the ZBA members present for the conduct of business shall be required for the approval of any requested action or motion placed before the ZBA. Voting shall ordinarily be voice vote for such items as approval of the minutes and approval of the agenda. However, roll call votes will be required for all votes related to a decision on a variance, interpretation, or appeal. Furthermore, a roll call can also be required if requested by any ZBA member or directed by the Chairperson. All members of the ZBA including the Chairperson shall vote on all matters, with their names called on a rotating basis so the person whose name was called first on a roll call vote will be called last next time and second to last the next, etc, etc.

A member may be excused from voting only if that person has a bona fide conflict of interest as recognized by the majority of the remaining members of the Commission. A member may request to be excused from voting. That request shall be made before the consideration of the matter. The member shall reveal the basis for the potential conflict and the remainder of the ZBA shall vote to find that is, or is not a conflict. A member may also request that the ZBA find by majority vote that another member has a conflict of interest and should be prohibited from voting.

A member of the zoning board of appeals who is also a member of the planning commission or the City Council shall not participate in a public hearing on or vote on the same matter that the member voted on as a member of the planning commission or the City Council. However, the member may consider and vote on other unrelated matters involving the same property. Any member abstaining from a vote shall not participate in the discussion of that item and shall leave the room while the issue is being discussed and voted on.

3.9 **Order of Business.** A written agenda for all regular meetings shall be prepared as follows:

- A. Call to Order
- B. Pledge of Allegiance
- C. Roll Call
- D. Approval of Agenda

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- E. Approval of Minutes
- F. Correspondence that is Relevant to the Agenda
- G. Public Comments and Communications Concerning Items Not on the Agenda. Each Speaker Will Be Limited To 5 Minutes.
- H. Variance, Interpretation, and Appeal Hearings
 - a. Applicant Presentation
 - b. Staff Presentation
 - c. Public Hearing
 - d. Discussion and Questions by ZBA
 - e. Motion
 - f. Discussion on Motion
 - g. Roll Call Vote
- I. Any other Business/on-going Business
- J. Public Comments and Communications Concerning Items Not on the Agenda. Each Speaker Will Be Limited To 5 Minutes.
- K. Boardmember Comments
- L. Adjournment

A written agenda for special meetings shall be prepared and followed; however, the form as enumerated above shall not be necessary.

3.10 Rules of Order. All meetings of the ZBA shall be conducted in accordance with generally accepted parliamentary procedure, as governed by “Robert’s Rules of Orders”.

3.11 Alternates. An alternate member may be called as specified in the zoning ordinance to serve as a member of the zoning board of appeals in the absence of a regular member if the regular member will be unable to attend 1 or more meetings. An alternate member may also be called to serve as a member for the purpose of reaching a decision on a case in which the member has abstained for reasons of conflict of interest. The alternate member appointed shall serve in the case until a final decision is made. An alternate member serving on the zoning board of appeals has the same voting rights as a regular member.

4. MINUTES

4.1 ZBA minutes shall be prepared by the Recording Secretary of the ZBA or designee. 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

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attendance. The minutes of a public hearing shall include an identification of each member of the public who spoke and a summary of their comments. All communications, actions, and resolutions shall be attached to the minutes. The official records shall be deposited with the City Clerk when they become available.

5. OPEN MEETINGS AND FREEDOM OF INFORMATION PROVISIONS

- 5.1 All meetings of the ZBA shall be opened to the public and held in a place available to the general public.
- 5.2 All deliberations and decisions of the ZBA shall be made at a meeting open to the public.
- 5.3 A person shall be permitted to address a hearing of the ZBA under the rules established in section 3.5, and to address the ZBA concerning non-hearing matters under the rules established in Section 3.8 to the extent that they are applicable.
- 5.4 A person shall not be excluded from a meeting of the ZBA except for breach of the peace, committed at the meeting.
- 5.5 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.
- 5.6 All meetings shall be recorded using a audio cassette or similar medium if practical.

6. AMENDMENTS

These rules may be amended by the ZBA by a concurring vote pursuant to subsection 3.7, during any regular meeting, provided that all members have received an advanced copy of the proposed amendments at least 3 days prior to the meeting at which such amendments are to be considered.

THESE BY-LAWS AND RULES OF PROCEDURES ARE ADOPTED ON THE

18th March, 2009

Ron Smith
ZBA Secretary