

# **CHARTER TOWNSHIP OF OAKLAND ZONING BOARD OF APPEALS BY-LAWS AND RULES OF PROCEDURE**

## **ARTICLE I: NAME**

Sec. 1 The name of the organization shall be the “Charter Township of Oakland Zoning Board of Appeals”.

## **ARTICLE II: POWERS AND AUTHORITY**

Sec.1 These by-laws and rules of procedure are adopted by the Charter Township of Oakland Zoning Board of Appeals pursuant to Township Ordinance #16, Section 25.01.01, and the Township Zoning Act (Act 184 of P.A. 1943, as amended). The Zoning Board of Appeals shall perform such legally permissible duties and shall carry out such processes and procedures as may be required by the Charter Township of Oakland Zoning Ordinances.

Sec. 2 The Zoning Board of Appeals shall have the following powers:

A. To hear and decide questions that arise in the administration of the Zoning Ordinance.

B. To hear and decide appeals from and review any order, requirement, decision, or determination made by any administrative official or body charged with enforcement of an ordinance adopted pursuant to the Township Zoning Act.

C. To hear and decide matters referred to it or upon which it is required to pass under an ordinance adopted pursuant to the Township Zoning Act.

## **ARTICLE III: MEMBERS**

Sec. 1 **MEMBERSHIP COMPOSITION.** The Charter Township of Oakland Zoning Board of Appeals shall consist of five members appointed by the Charter Township of Oakland Board of Trustees. One member of the Zoning Board of Appeals must be a representative

from the Planning Commission and the other four members shall be residents from the Charter Township of Oakland. In addition, the Board of Trustees may appoint not more than two alternate members.

Sec. 2 **COMPENSATION.** All appointed members of the Zoning Board of Appeals may be compensated at a rate to be determined by the Board of Trustees.

Sec. 3 **RESTRICTIONS.** An alternate member shall only serve on the Zoning Board of Appeals if a regular member will be absent from or unable to attend two consecutive meetings, or will be unable to attend meetings for more than 30 days, or during the abstention of a regular member for reasons of conflict of interest. In the case of a conflict, the alternate member shall serve in the case until a final decision has been made.

Sec. 4 **TERMS OF OFFICE.** The terms of office of regular and alternate members shall be three years arranged such to provide for appointments every year. Alternates shall be appointed for the same terms as regular Board members.

Sec. 5 **VACANCIES.** A vacancy on the Zoning Board of Appeals occurring other than through the expiration of the term shall be filled for the unexpired term by the Board of Trustees.

Sec. 6 **VOTING RIGHTS OF ALTERNATE MEMEBERS.** Alternate members shall only have the right to vote upon those specific matters in which they have been called upon to serve in the absence of a regular member or called upon to serve due to the abstention of a regular member as a result of a conflict of interest. The alternate member shall then continue to hear those cases for which they were called to serve until final disposition of those cases.

## **ARTICLE IV: OFFICERS**

Sec. 1 **SELECTION.** The Charter Township of Oakland Zoning Board of Appeals shall elect a Chairperson, Vice Chairperson and Secretary from amongst the regular members of the Board.

Sec. 2 **TERMS OF OFFICE.** The terms of the Chairperson, Vice Chairperson, and Secretary shall be one year in length or until their successors are elected.

Sec. 3 **DUTIES.** The Chairperson shall preside over all meetings of the Board and shall perform the duties prescribed by these by-laws. The Vice Chairperson shall perform the duties of the Chairperson in the absence or disability of the Chairperson. The Secretary shall be responsible for keeping a written record in the English language of the resolution, transactions, findings, and determinations of the Board, which record shall be a public record subject to the provisions of the Michigan Freedom of Information Act, Public Act 442 of 1976, as amended.

Sec. 4 **VACANCIES.** If a vacancy should occur in any office, the Board shall elect another person to fill such vacancy in the same manner and under the same conditions outlined above for the remainder of the term of said office.

## **ARTICLE V: MEETINGS**

Sec. 1 **REGULAR MEETING.** The Charter Township of Oakland Zoning Board of Appeals shall meet on the third Tuesday of each month, at a time to be established by resolution of the Board.

Sec. 2 **ANNUAL MEETING.** The regular meeting of the Zoning Board of Appeals in March of each year shall be known as the Annual Meeting and shall be for the purpose of electing officers and any other business that may arise.

Sec. 3 **SPECIAL METINGS.** Special meetings may be called by the Chairperson or the Township Manager. The purpose of the meeting shall be stated in the call. The business which the Board may perform shall be conducted at a public meeting of the Board held in compliance with the Michigan Open Meetings Act. Public notice of the time, date, and place of the special meeting shall be given in the manner required in the Open Meetings Act, and a notice of the special meeting shall be sent to Board members not less than one (1) day in advance of the meeting, except that any such meeting at which all regular members of the Board are present or have waived notice in

writing shall be a legal meeting for all purposes without notice, subject to the Michigan Open Meetings Act.

Sec.4**QUORUM.** Three (3) members of the Board shall constitute a quorum of the Board to conduct business. When a quorum is not present, no official action of the Board, except for closing of the meeting, may take place. Due to its quasi-judicial nature, the Zoning Board of Appeals shall not engage in discussion on any matter during any time in which a quorum of the Board is not present to conduct business. All public hearings without a quorum present shall be rescheduled for the next regular or special meeting and no additional public notice shall be required, provided that the date, time and a place for the rescheduled public hearing is announced at the meeting.

Sec. 5 **TIMING OF APPEALS.** The Board shall, by resolution, set the time required to hear and take action on an appeal. Due notice shall be given to the appellant/applicant as to when their appeal will be heard. In all cases, appeals must be decided within a reasonable time, based on the circumstances surrounding the appeal.

Sec.6**ORDER OF BUSINESS.** A written agenda for all regular and special meetings shall be prepared and followed. The order of business shall, at a minimum, be:

- Call to Order
- Roll Call
- Approval of Minutes
- Approval of Agenda
- Citizens Comments
- Old Business
- New Business (Public Hearings)
- Board Member Reports
- Adjournment

Sec.7**HEARINGS.** Hearing shall be scheduled and due notice given in accordance with the provisions of the Michigan Open Meetings Act and the relevant enabling act under which the public hearing is being held. **Unless excused by the board, the absence of the applicant or a representative of the applicant at the scheduled public hearing shall be treated as the voluntary withdrawal of the application by**

**the applicant.** Public hearings conducted by the Board shall be run in an orderly and timely fashion, which shall be accomplished by adhering to the following public hearing procedure:

A. **OPENING ANNOUNCEMENT.** The chairperson shall give an official opening announcement of the public hearing indicating the basic nature of the request.

B. **ANNOUNCEMENT OF ORDER OF HEARING.** The Chairperson shall explain the order of the public hearing as being as follows:

- 1) Explanation of request as received by the Board.
- 2) Comments and explanations by the applicant.
- 3) Opening of Public Hearing, comments from public.
- 4) Closing of Hearing to public comments.
- 5) Questions by the Board.
- 6) Consideration of action by the Board.

C. **RULES OF CONDUCT.** The Chairperson shall announce the rules of conduct of the public hearing as follows: 1) All comments shall be addressed to the Chair; 2) Each person shall be given an opportunity to be heard, but second comments will not be permitted until every person has had the opportunity to speak for the first time; 3) In the interest of fairness to the public, statements from the floor should be as concise as possible; 4) The Chairperson reserves the right to terminate a presentation or ask for a summation if comments become excessively repetitive or stray from the issues at hand; 5) For large hearings, a time limit of three (3) minutes per person shall be placed on public comments; 6) At all times during the public hearing, the Chairperson expects courtesy from all participants and catcalls, booing, or other outbursts from the public shall not be tolerated; and 7) Decision of the Board shall be based upon the appropriate legal standards based upon proper facts and the authority vested in the Board by State law and the Oakland Township Zoning Ordinance.

D. **PRESENTATION OF PROPOSAL.** The Chairperson shall then ask the applicant to give their presentation. The applicant may

present a brief review of the reasons for the appeal or application and respond to questions raised by the Board.

**E. OPENING OF HEARING TO FLOOR.** The Chairperson then opens the public hearing to comments from the floor, reminds the public of the rules of conduct, and indicates that once a person has been recognized by the Chairperson they shall stand and give their name and address and a concise statement of their questions and/or concerns. In the event of a large hearing, the Chairperson may encourage groups in attendance to be represented by a spokesperson. When individual time limits have been imposed, the Chairperson reserves the right to limit the amount of time allocated to a spokesperson to avoid filibustering. The Chairperson may elect during the course of public comments to obtain brief answers from the Township administration or from the applicant if such comments may expedite the hearing. The Chairperson shall receive for the official record any letter and/or petitions received by the Board regarding the matter at hand and shall read and/or summarize these materials.

**F. CLOSING OF PUBLIC HEARING.** When all public comments have been received the Chairperson shall close the public hearing. After the public hearing is closed no further comments shall be received from the public.

**G. CONSIDERATION OF MATTER BY BOARD.** Once the public hearing has been closed to public comments, the Chairperson may recognize any Board member to discuss and seek additional information from others concerning the matter at hand. Board members shall address the Chairperson when speaking and shall request additional information through the Chairperson. When discussion on the matter at hand by Board members has been completed, the board may take one of the following four actions on the matter: (1) Approve the request as presented; (2) Approve the request with conditions; (3) Deny the request as presented; or (4) Defer/adjourn the matter to a future meeting. Motions for approvals or denials and motions to table or adjourn a matter to a future meeting should include reasons for such actions. Motions for tabling or adjournment should also include the date, time, and place at which the matter will be further considered.

Sec.8 **MOTIONS.** Motions shall include the reason for the approval or denial. The name of the maker and those who seconded the motions shall be recorded.

Sec.9 **VOTING.** An affirmative vote of the majority of the Board's regular membership shall be required for the approval, denial or tabling of any requested action or motion placed before the Board. Voting shall ordinarily be by voice vote; provided however that a roll call vote shall be required if requested by any board member or directed by the Chairperson. All members of the Board 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 bona fide conflict of interest as recognized by the majority of the remaining members of the Board, during which case an alternative member shall serve on the Board to hear the merits of that specific case until a final determination on the case is made by the Board. Any member abstaining from a vote shall not participate in the discussion of that item.

Sec.10 **NOTICE OF DECISIONS.** A written notice containing the decision of the Zoning Board of Appeals will be sent to the applicant.

Sec.11 **MEETING MINUTES.** Board minutes shall be prepared by the Township administration or its 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 made on any action; and recording of attendance. All communications, actions, and resolutions shall be kept in the official file. The official minutes shall be maintained by the Township Clerk upon approval by the Board.

## **ARTICLE V: COMMITTEES**

Sec.1 **STANDING COMMITTEES.** There shall be no standing committees of the Zoning Board of Appeals.

Sec.2 **SPECIAL COMMITTEES.** Special or ad-hoc committees may be appointed by the Chairperson of the Board as the Board shall from

time to time deem necessary to carry on the work of the Zoning Board of Appeals. The Chairperson shall be an ex officio member of all special or ad-hoc committees of the Board.

## **ARTICLE VI: AMENDMENT OF BY-LAWS**

Sec.1 These by-laws may be adopted and amended at any regular meeting of the Board by a two-thirds vote, provided that the amendment has been submitted in writing at the previous regular meeting.

Adopted: February 15, 2005.