

ZONING BOARD OF APPEALS BYLAWS

CITY OF EASTPOINTE, MI

Adopted: April 21, 2022

Article I - Purpose

The following rules of procedure are hereby adopted by the Eastpointe Zoning Board of Appeals (hereinafter known as the ZBA) to facilitate the performance of its duties as set forth in Chapter XIII of the Eastpointe City Charter; Chapter 50, Article VI of the Eastpointe Code of Ordinances; and the Michigan Zoning Enabling Act, PA 110 of 2006, as amended (MCL 125.3601, et seq.) (“the Zoning Act”).

Article II - Membership

Section 1. Composition. The membership of the ZBA shall be seven (7) members (plus two (2) alternates) and appointed according to the procedure as established in the Eastpointe Zoning Ordinance (Section 50-50), and Section 601 of the Zoning Act. Members of the ZBA shall be subject to Section 2-344 of the Eastpointe Code of Ordinance as to removal, vacancies, and compensation.

Section 2. Attendance. A ZBA member shall notify the City Administration and the ZBA Chairperson in advance if they are going to be absent from the meeting. If any member of the ZBA is absent from three (3) consecutive regularly scheduled meetings, then that member shall be considered delinquent. Delinquency shall be grounds for the Eastpointe City Council to remove a member from the ZBA for nonperformance of duty or misconduct after holding a public hearing on the matter. The ZBA secretary shall keep attendance records and shall notify the City Council whenever any ZBA member is absent from three (3) consecutive regularly scheduled meetings, so the City Council can consider further action allowed under law or excuse the absences.

Section 3. Training. Each ZBA member shall attend at least four (4) hours per calendar year of training in planning and zoning during the member’s current term of office. Training shall be provided by one or more of the following organizations: Michigan Association of Planning, Michigan State University Extension, Michigan Townships Association, Michigan Municipal League, continuing education programs of Michigan State University, University of Michigan, Northern Michigan University, Central Michigan University, or Wayne State University, or a similar continuing education program found to be acceptable to the City Administration. ZBA members shall produce a list of their trainings to the City Administration by the end of each calendar year.

Section 4. Liaisons. The purpose of liaisons is to provide certain City officials the ability to participate in discussion with the ZBA in addition to speaking in public, and nothing else. Liaisons cannot vote, introduce motions, initiate any other parliamentary action, be counted for

a quorum, or be expected to comply with attendance requirements. Liaisons, if not already appointed ZBA members, are Planning/Zoning Department staff and their agents and consultants, or the City Attorney.

Section 5: Employees. The ZBA may employ such staff and/or experts as it sees fit to aid the ZBA and that is subject to City Council approval.

Section 6. Conflicts of Interest. Each member of the ZBA shall avoid conflicts of interest and/or incompatibility of office. As used here, a conflict of interest shall at a minimum include, but not necessarily be limited to, the following:

- a. Issuing, deliberating on, voting on, or reviewing a case concerning the member.
- b. Issuing, deliberating on, voting on, or reviewing a case concerning work on land owned by the member or which is adjacent to land owned by the member.
- c. Issuing, deliberating on, voting on, or reviewing a case involving a corporation, company, partnership, or any other entity in which the member is a part owner, or any other relationship where they may stand to have a financial gain or loss.
- d. Issuing, deliberating on, voting on, or reviewing a case which is an action which results in a pecuniary benefit to the member.
- e. Issuing, deliberating on, voting on, or reviewing a case where the member's employee or employer is an applicant or agent for an applicant, or has a direct interest in the outcome.

If there is a question whether a conflict of interest exists or not, the question shall be put before the ZBA. Whether a conflict of interest exists or not shall be determined by a majority vote of the remaining ZBA members. When a conflict of interest exists, the ZBA member shall do all the following immediately, upon first knowledge of the case and determining that a conflict exists:

- a. Declare a conflict exists at the next ZBA meeting;
- b. Cease to participate at the ZBA meeting, or in any other manner, or represent oneself before the ZBA, its staff, or others; and
- c. During deliberation of the agenda item before the ZBA, leave the meeting or remove oneself from the front table where members of the ZBA sit, until that agenda item is concluded.

If a member of the ZBA is appointed to another office, which is an incompatible office with their membership on the ZBA, then on the effective date of the appointment to the other office, that shall result in an automatic resignation from the ZBA.

Section 7. Ex Parte Contact. Members shall avoid ex parte contact about cases where an administrative decision is before the ZBA whenever possible. If ex parte contact is unavoidable, ZBA members should take detailed notes on what was said and report what was said to the ZBA at a public meeting or hearing.

Section 8. Acceptance of Gifts. Gifts shall not be accepted by a member of the ZBA or liaisons from anyone connected with an agenda item before the ZBA. As used here, gifts shall mean cash, any tangible item, or service regardless of value; or food valued over \$10.

Section 9. Not Voting on the Same Issue Twice. Any ZBA member shall avoid situations where they are sitting in judgement and voting on a decision, which they had a part in making. As used here, sitting in judgement and voting on a decision which they had a part in making at a minimum shall include, but not necessarily be limited to, the following:

- a. When the appeal is of an administrative or other decision by Planning Commission, and the ZBA member sits both on the Planning Commission and ZBA.
- b. When the appeal is of an administrative or other decision by City Council, and the ZBA member sits both on City Council and the ZBA.
- c. When the appeal is of an administrative or other decision by any committee of the Planning Commission, City Council, other committee, and the ZBA member sits both on that committee and the ZBA.

Article III - Officers

Section 1. Nomination. At the first regular meeting of each year, the ZBA shall select from its membership a Chairperson, Vice-Chairperson, and a Secretary. A candidate receiving a majority vote of the entire membership of the ZBA shall be declared elected. A member may accept a nomination in-absentia if they have advised the ZBA in writing (e-mail is acceptable) prior to the meeting.

All officers are eligible for reelection. In the event the office of the Chairperson becomes vacant, the Vice-Chairperson shall succeed to this office for the unexpired term and the ZBA shall select a successor to the office of the Vice-Chairperson for the unexpired term. In the event the office of the Secretary becomes vacant, the ZBA may designate another person who is not a member of the ZBA to be the recording secretary.

Section 2. Tenure. The Chairperson, Vice-Chairperson, and Secretary shall take office the following month after their selection and shall hold office for a term of one-year or until their successors are selected and assume office.

Section 3. Chairperson Duties. The Chairperson shall:

- a. Preside at all meeting and hearings of the ZBA, and have the duties normally conferred by parliamentary usage on such officers;
- b. Sign all decisions of the ZBA pursuant to MCL 125.3606(3);
- c. Shall rule out of order any irrelevant remarks; remarks which are personal; remarks about another's race, religion, sex, physical condition, ethnic background, beliefs, or similar topics; profanity; or other remarks which are not about the topic before the ZBA;
- d. Appoint committees, and appoint officers of those committee or choose to let the committee select their own officers;
- e. Call special meetings;
- f. Represent the ZBA, along with the City Council ZBA member, before City Council or the Planning Commission; and
- g. Perform such other duties as may be ordered by the ZBA.

Section 4. Vice-Chairperson Duties. The Vice-Chairperson shall act as the Chairperson in their absence and perform such other duties as may be ordered by the ZBA.

Section 5. Secretary Duties. The Secretary shall:

- a. Execute documents in the name of the ZBA;
- b. Be responsible for the minutes of each meeting, if there is not a recording secretary;
- c. Review the draft of the minutes, sign them, and submit them for approval by the ZBA. Copies of minutes shall be distributed to each ZBA member prior to the next meeting of the ZBA (the Secretary may delegate this duty to City staff);
- d. Receive all communications, petitions and reports to be addressed by the ZBA, delivered or mailed to the Secretary in care of the City office;
- e. Keep attendance records;
- f. Provide notice to the public and members of the ZBA for all regular and special meetings, pursuant to the Open Meetings Act, PA 267 of 1976, as amended, MCL 15.261 et seq. (the Secretary may delegate this duty to City staff); and
- g. Prepare an agenda for ZBA meetings (the Secretary may delegate this duty to City staff).

Article IV - Meetings

Section 1. Regular Meetings. Regular meetings shall be held on the third Thursday of each month at 7:00 PM, as required, in Council Chambers at the Eastpointe City Hall, Eastpointe, Michigan or where otherwise designated by City Council. When the regular meeting falls on a holiday, the meeting shall be held on such other day as determined by the ZBA. When there is no business scheduled, the Chairperson may cancel the meeting.

Section 2. Majority. A majority of the full membership of the ZBA (that is, the number of regular members of the ZBA, as established by City Council) shall constitute a quorum and the number of votes necessary to transact business shall be a majority of the full membership, present and voting, of the ZBA.

Section 3. Motions.

- a. Motions shall be restated by the Chairperson before a vote is taken.
- b. Findings of Fact. All actions taken in an administrative capacity (including but not limited to appeals, variances, determination of compliance with an adopted plan) shall include each of the following parts:
 1. The findings of fact, listing what the ZBA determines to be relevant facts (including parcel owner, parcel legal description, what is applied for) in the case in order to eliminate misleading statements, hearsay, irrelevant, and untrue statements.
 2. Conclusions, listing reasons based on the facts for the ZBA's action.
 3. The ZBA's action, recommendation or position, approval, approval with conditions, or disapproval.
- c. Any other motion shall be stated in prose or in the form of a resolution.

Section 4. Voting. Voting shall be by roll call vote and shall be recorded by "yes" or "no" as part of the minutes. If a member abstains from the vote, it shall be recorded as such in the minutes.

Section 5. Special Meetings. Special meetings may be called by the Chairperson. It shall be the duty of the Chairperson to call such a meeting when requested to do so in writing by a majority of the members of the ZBA. The notice of such a meeting shall specify the purposes of such a meeting and no other business may be considered except by unanimous consent of the ZBA. The Secretary shall notify all members of the ZBA in writing not less than five (5) days in advance of such special meeting.

Section 6. Petitioner Attendance. When a petitioner fails to appear at a properly scheduled ZBA meeting, the Chairperson may entertain a motion from the ZBA to dismiss the case for want of prosecution. In the absence of a motion by the ZBA, the Chairperson shall rule. In cases which are dismissed for want of prosecution, the petitioner will be furnished written notice of the action by the Secretary. The applicant shall have seven (7) days from the date of the notice of dismissal to apply for reinstatement of the case. In such cases, applicant must file a written request with the City Administration for reinstatement. Reinstatement shall be at the discretion of the Chairperson for good cause shown, and upon payment of a fee set from time to time by the City Council. In all cases reinstated in the above-described manner, the case will be docketed and re-advertised in the usual manner prescribed for new cases.

Section 7. Recesses. The Chairperson, or the ZBA, after the meeting has been in session for two (2) hours, shall suspend the ZBA's business and evaluate the remaining items on its agenda. The ZBA shall then decide to finish that meetings agenda, may act to continue the meeting on another day (fix the time at which to adjourn), or complete some agenda items and continue the meeting on another day to complete other agenda items or postpone certain agenda items to the next meeting. If applicable such action shall include the time, day, month, date, year and location the ZBA will reconvene. If more than 18 hours will pass before the reconvened appeals board meeting, public notice shall be given to comply with PA 267 of 1976, as amended, (being the Michigan Open Meeting Act M.C.L. 15.261 et seq.). Upon reconvening, a roll call of attendance shall be the first item of business before proceeding with the same agenda. The ZBA shall resume with the same meeting agenda, proceeding at the same point where they left off, without the addition of additional business.

Article V - Order of Business

Section 1. Order. The order of business at regular meetings shall be:

- I. Roll Call
- II. Approval of the Agenda
- III. Hearing of the-Public (*for items not scheduled for a public hearing*)
- IV. Approval of Minutes
- V. Public Hearing(s) (*for a specific agenda item*)
- VI. New Business
- VII. Unfinished Business
- VIII. Board Member Comments
- IX. Adjournment

Section 2. Parliamentary Procedure. Parliamentary procedure shall be governed by the Sturgis Standard Code of Parliamentary Procedure by Alice Sturgis for issues not specifically covered by these bylaws. Where these bylaws conflict or are different than the Sturgis Standard Code of Parliamentary Procedure, then these bylaws control.

Section 3. Public Participation.

- a. All meetings, hearings, records, and accounts shall be open to the public, and posted in compliance with PA 267 of 1976, as amended, (being the Michigan Open Meetings Act). All regular and special meetings, hearings, records, and accounts shall be open to the public.
- b. All public comment on all agenda items should be presented at the beginning of the meeting where provided in the printed agenda. After that point during the meeting, public comment is normally not allowed; however, sometimes the ZBA may direct questions to members of the public. Public comment is at the beginning of the meeting so the ZBA can hear concerns and questions before acting on an issue. Those making public comment are expected to be familiar with the issue and have prepared comments ahead of time. To help the public in preparing for the meeting, any written material shall be made available without cost for members of the public asking for a copy prior to the meeting.
- c. Members of the public shall be allowed a maximum of five (5) minutes for each person wishing to make public comment at a ZBA meeting. The Chairperson may ask members of the audience to caucus with others sharing similar positions so they may select a single spokesperson. If a single spokesperson is selected, that individual shall be able to make public comment at the ZBA meeting without time limit or an extended time limit.

Section 4. Delivery of Agenda. The agenda and accompanying materials shall be hand delivered or emailed to ZBA members, so it is reasonably expected to be received at least five (5) days prior to the regular meeting date.

Section 5. Minutes and Record. The Secretary shall keep, or cause to be kept, a record of ZBA meetings, including meeting notices; a copy of the minutes and all attachments and summaries; and any action, supporting documents, or correspondence.

Section 6. Retention. ZBA records shall be preserved and kept on file according to the following schedule:

- a. Minutes, bonds, oaths of officials, zoning ordinances, or other records of decision, ZBA or department publication: Permanent.
- b. General ledger: 20 years.
- c. Account journals: 10 years.
- d. Bill and/or invoices, receipts, purchase orders, vouchers: 7 years.
- e. Correspondence: Permanent.

Article VI – Appeals and Hearings

Section 1. Filing for an Appeal.

- a. The following may file for an appeal:

1. Any aggrieved person, or the person's authorized agent;
 2. Officer, department, board, or bureau of the state; and
 3. Officer, department, board, or bureau of a local unit of government.
- b. The filing for an appeal of a decision or for a variance shall be in writing on a form provided by the City Administration, and upon payment of a fee as may be established by the City Council. Such Demand for Appeal shall be filed with the City not more than 30 days from the date of the decision being appealed. A Demand for Appeal for a variance shall be filed with the City at any time.
- c. Within 10 days from the date of the receipt of the Demand for Appeal which is found to be complete, the City Administration shall contact the Chairperson of the ZBA and set up a date(s) and time for the ZBA to meet to hold a hearing and a meeting to consider and act on the case.

Section 2. Hearings. Before granting or rejecting an Appeal or Variance, the ZBA shall hold a public hearing on the matter:

- a. Notice of the time and place of the hearing shall be given, not less than fifteen (15) days prior to such hearing, by at least one publication in a newspaper of general circulation.
- b. Notices shall be:
 1. Sent by mail or personal delivery to owners of property(ies) for the land which is the subject of the appeal.
 2. Sent by mail or personal delivery to all persons to whom real property is assessed within 300 feet of the property(ies) which is the subject of the appeal regardless of whether the owner and property is located in the zoning jurisdiction or not.
 3. Sent by mail or personal delivery to all persons which occupy all structures within 300 feet of the property(ies) which is the subject of the appeal regardless of whether the structure and occupant is located in the zoning jurisdiction or not.
- c. The notice shall include the following information:
 1. Describe the nature of the request;
 2. Indicate the property(ies) which is(are) subject of the hearing;
 3. A listing of all existing street addresses within the property(ies) which is(are) subject of the appeal (street addresses do not need to be created and listed if no such addresses currently exist); if there are no street addresses another means of identification may be used;
 4. A statement of when and where the issue will be considered; and
 5. An indication of when and where written comments will be received.

Section 3. Notice of Decision. A written notice containing the decision of the ZBA will be sent to petitioners and originators of a request for the Appeal.

Section 4. Deadline for Action. The ZBA shall hear a case and render and file its decision with a statement of reasons for the decision with the City Administration not more than 30 days after receipt of the case, unless a longer period of time is mutually agreed upon by the petitioner and ZBA.

Section 5. Other Hearings. In addition to the hearings required by law, the ZBA may at its discretion hold public hearings when it decides that such hearings will be in the public interest.

Article VII – Annual Report

The ZBA shall make a written report to the City Council of the work of the ZBA during the preceding calendar year.

Article VIII – Amendments

These Bylaws may be amended by at least 2/3 vote of the entire membership of the ZBA, provided notice of the proposed change is given at a previous meeting.

Article IX – Adoption

These revised Bylaws were adopted on April 21, 2022 and will take immediate effect and supersede all previous Bylaws.



Cliff Wilson
Zoning Board of Appeals Chairperson



Alexander Stokes
Zoning Board of Appeals Secretary