



A PLACE FOR TODAY. TOMORROW. THE FUTURE.

VILLAGE OF ROSCOMMON

ZONING BOARD OF

APPEALS

BYLAWS AND RULES OF  
PROCEDURE

The main function or purpose of the following Bylaws is to establish the rules of operation for the Zoning Board of Appeals. In addition to establishing procedure, the Bylaws also describe the organizational framework of the Zoning Board of Appeals, and, in general terms, define the duties and responsibilities of the Zoning Board of Appeals.

**ARTICLE I: AUTHORITY****Section 1**

The following rules and procedures of the Village of Roscommon Zoning Board of Appeals (hereinafter referred to as “the ZBA”) are subordinate and subject to the following statutes:

Michigan Public Act 285 of 1931, as amended  
Michigan Public Act 267 of 1976, as amended  
Planning Enabling Act, Public Act 33 of 2008  
Michigan Zoning Enabling Act P.A. 110 of 2006 further amended as Public Act 12 of 2008  
The Village of Roscommon Zoning Ordinance Of 2021.

**ARTICLE II: TITLE**

The title of the Board shall be “The Village of Roscommon Zoning Board of Appeals.”

**ARTICLE III: MEMBERSHIP****Section 1**

The membership of the Zoning Board of Appeals shall be three (3) and appointed according to the procedure as established in the Village of Roscommon Zoning Ordinance of 2021 and section 601 of P.A. 110 of 2006, as amended (being the Michigan Zoning Enabling Act, M.C. L. 125.3601.

**Section 2**

Absence of a member from three (3) consecutively scheduled without the recorded consent of the Chair may be construed as a resignation from the ZBA. The Chairperson shall determine if absences will be excused. The Chair shall convey absenteeism to the Village Council for consideration at a public hearing.

**Section 3**

When members propose to resign, a notice of their intent in writing shall be provided to the Chairperson with a date of the resignation, effective in such a manner as to allow time for appointment of successors. The Chairperson shall promptly indicate that a vacancy exists and provide a copy of the resignation to the Village Manager.

**Section 4**

Members of the ZBA are advised to attend training in planning and zoning. The Village will make every effort to provide training that is convenient and conducive to the member’s schedule. As part of training, every member is encouraged to read the Village of Roscommon Zoning Ordinance, the Michigan Zoning Enabling Act, the Planning Enabling Act, and the Michigan Municipal League’s Zoning Board of Appeals Handbook.

**Section 5**

The ZBA may request the assistance of ex-officio members (liaisons). The purpose of liaisons is to provide information. Liaisons cannot vote, introduce motions, initiate any other parliamentary action, be counted for a quorum, or be expected to comply with attendance requirements pursuant to Article III, section 2. Liaisons are, but not limited to: Zoning Administrator, Building Inspector, Attorney, County Surveyor, County Register of Deeds, Planning Consultant.

**Section 6**

A member of the ZBA may be removed by the Village Council for misfeasance, malfeasance, or nonfeasance in office upon written charges and after a public hearing. A member shall disqualify himself or herself from a vote in which the member has a conflict of interest. Failure of a member to disqualify himself or herself from a vote in which the member has a conflict of interest constitutes a malfeasance in office.

**Section 7**

Members may be paid a reasonable per diem and be reimbursed for expenses actually incurred in the discharge of his or her duties at a rate determined by the Village Council. Members may volunteer their services.

**ARTICLE IV: Conflict of Interest and Incompatibility of Office.****Section 1**

Each member of the ZBA shall avoid situations that are 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 him or her.
- b. Issuing, deliberating on, voting on, or reviewing a case concerning work on land owned by him or her or which is adjacent to land owned by him or her.
- c. Issuing, deliberating on, voting on, or reviewing a case involving a corporation, company, partnership or any other entity in which he or she is a part owner, or any other relationship where he or she may stand to have financial gain or loss.
- d. Issuing, deliberating on, voting on, or reviewing a case which is an action which results in pecuniary benefit to him or her.
- e. Issuing, deliberating on, voting on, or reviewing a case concerning his or her spouse, children, stepchildren, grandchildren, parents, brothers, sisters, grandparents, parents-in-law, grandparents-in-law, or members of his or her household.
- f. Issuing, deliberating on, voting on, or reviewing a case where his or her employee or employer is
  - (1) An applicant or agent for an applicant or
  - (2) Has a direct interest in the outcome.

**Section 2**

When a conflict of interest exists, the member of the Zoning Board of Appeals shall do all of the following immediately, upon first knowledge of the case and determining that a conflict exists:

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

**Section 3**

If a member of the Zoning Board of Appeals is appointed to another office, which is an incompatible office with his or her membership on the Zoning Board of Appeals, then on the effective date of the appointment to the other office, that shall result in an automatic resignation from the Zoning Board of Appeals. If a member of another office is appointed to the Zoning Board of Appeals which is an incompatible office with his or her membership in the other office, then on the effective date of the appointment to the Zoning Board of Appeals, that shall result in an automatic resignation from the other office.

**ARTICLE V: Officers and Duties of Officers****Section 1**

At the annual meeting each year, the ZBA shall select from its membership a Chair, Vice-Chair and Secretary. All officers are eligible for reelection.

**The officers of the ZBA shall be:**

**A Chairperson,** who shall perform the duties of the office as follows:

1. Preside at all Regular, Adjourned, Special or Committee Meetings. Prepare the agenda for each meeting.
2. Sign all decisions of the ZBA.
3. 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.
4. Restate all motions.
5. Appoint committees; and the officers of such committees if deemed necessary. May call special meetings.
6. May administer oaths and compel the attendance of witnesses. Represent the ZBA before a legislative body.
7. Represent the ZBA in legal matters.

8. Set time and date for meetings and notify the membership and others as deemed necessary of such. Prepare a time sheet/attendance record for the clerk for the payment of per diems.
9. Receive all communications, petitions, and reports to be addressed by the ZBA and distribute as needed. Perform other such duties as may be ordered by the Zoning Board of Appeals

**A Vice Chairperson**, who shall perform the duties of the office as follows:

1. Act in the capacity of the Chair, with all the powers and duties of the chair as previously stated, in the absence of the Chair; and
2. Perform other such duties as may be ordered by the Zoning Board of Appeals.

**A Secretary**, who shall perform the duties of the office as follows:

1. Be responsible for the taking of minutes of each meeting in the absence of the recording secretary. Review the draft minutes of each meeting.
2. Perform other such duties as may be ordered by the Zoning Board of Appeals.

## **Section 2**

### **A. *Ex Parte* contact**

1. Members shall avoid *Ex Parte* contact about cases where an administrative decision is before the ZBA whenever possible.

Despite one's best efforts it is sometimes not possible to avoid *Ex Parte* contact. When that happens, the member should take detailed notes on what was said and report to the ZBA at a public meeting or hearing what was said, so that every member and other interested parties are made aware of what was said.

**B. Site Inspections**

1. Site inspections shall be done by the zoning administrator. A written report of the site inspection shall be orally presented to the ZBA at a public meeting or hearing on the site.
2. If desired, no more than one member of the ZBA may accompany the zoning administrator or staff on a site inspection.

**C. Not Voting on the Same Issue Twice.**

1. Any member of the Zoning Board of Appeals 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 the Planning Commission and the member of the Zoning Board of Appeals sits both on the Planning Commission and ZBA.
  - b. When the appeal is of an administrative or other decision by the legislative body and the member of the Zoning Board of Appeals sits both on the legislative body and ZBA.
  - c. When the appeal is of an administrative or other decision by any committee of the Planning Commission, legislative body, other committee, and the member of the Zoning Board of Appeals sits both on that committee and ZBA.

**D. Accepting gifts.**

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

**E. Spokesperson for the Zoning Board of Appeals.**

1. Free and open debate should take place on issues before the Zoning Board of Appeals. Such debate shall only occur at meetings of the ZBA.
2. Once a vote is taken and an issue is decided by vote, the duty of each member of the Zoning Board of Appeals is to represent the position reflected by the outcome of the vote. Minority reports and requests for reconsideration may take place only at an open meeting of the Zoning Board of Appeals.
3. From time-to-time or on a specific issue the ZBA may appoint a spokesperson for the Zoning Board of Appeals for all matters which occur outside of the meetings of the Zoning Board of Appeals.

## **ARTICLE VI: Powers of the Zoning Board of Appeals**

### **Section 1**

The powers shall be provided as established in the Village of Roscommon Zoning Ordinance of 2003 and section 601 of P.A. 110 of 2006, as amended (being the Michigan Zoning Enabling Act, M.C. L. 125.3603.

## **ARTICLE VII: Public Hearing Notices**

Public Hearing notices shall comply with the Village of Roscommon Zoning Ordinance of 2003 and section 601 of P.A. 110 of 2006, as amended (being the Michigan Zoning Enabling Act, M.C. L. 125.3103.

## **ARTICLE VIII: Order of Business. Agenda.**

The Chairman or designee shall prepare an agenda for each meeting and order of business therein shall be as follows:

- A. Call to order, roll call, and Pledge of Allegiance, general comments of chair.
- B. Site inspection, then recess (optional, if the meeting is posted to include a site inspection).
- C. Reconvene and roll call (if following a site inspection).
- D. Election of officers, if necessary.
- E. Public Hearings. The Chairman will declare a hearing open and state its purpose.
  - (1) The Chairman shall summarize the procedure for public hearings.
  - (2) Appeal Number/Name.
    - (i) The zoning administrator presents the petitioner's request, his action on the matter and reasons for his decisions plus a written copy of the petitioner's request.
    - (ii) The petitioner --through himself, his agent, his lawyer-- may present his case, including presenting witnesses on his behalf. No time limit will be imposed on the petitioner.
    - (iii) Members of the Appeals Board shall report on their site inspection and any conversations with the petitioner they may have had.
    - (iv) Members of the public who support the petitioner speak and correspondence is read.

### **At the chairman's option he may:**

- a. *recess the meeting for a short time to allow those in support to caucus to have another speak on their behalf for an unlimited period of time if there are a large number of people present on an issue or for a set duration of time.*
- b. *allow many to speak in favor of the petitioner and can impose a time limit for the speaker that is three (3) minutes or more per speaker.*

- (v) Members of the public who oppose the petitioner speak and correspondence is read.

### **At the chairman's option he may:**

- a. *recess the meeting for a short time to allow those in opposition to caucus to have one speaker on their behalf for an unlimited period of time if there are a large number of people present on an issue.*
  - b. *allow many to speak in opposition of the petitioner and can impose a time limit for the speaker that is three (3) minutes or more per speaker.*
- (vi) Rebuttal. Anyone may ask the Chairman questions on presentations or speeches given at this hearing. The Chairman will seek an answer to the question. Answers shall be given to the Chairman. No discussion, questioning or answering shall take place between any two or more people except between the Chairman and the individual who has the floor.
  - (vii) Close the hearing. (At this point all public participation on the issue ends.)
- F. Public Comment for on this agenda but which are not items subject to a hearing at this meeting.
  - G. Recess to another night as deemed necessary (optional).
  - H. Housekeeping Business.
    - (1) Approval of minutes from previous meeting.
    - (2) Other.
  - I. Business Session.
    - (1) Action on pending appeal number/name.
      - (i) Discussion: Review of the facts based on all information presented (from the application, written request for appeal, zoning ordinance, physical characteristics of the parcels, staff reports, hearing testimony). Discussion continues until a member is confident enough to propose a motion that includes a "finding of fact" and/or "conclusions", and "rationale explaining why conclusions are reached" and "conditions" if any.
      - (ii) Motion is proposed on "finding of fact".
      - (iii) Discussion on the motion.
      - (iv) Action on the motion.
      - (v) Discussion focusing on standards and requirements of the ordinance.
      - (vi) Motion is proposed on "rationale, conclusions, conditions".
      - (vii) Discussion on the motion.
      - (viii) Action on the motion.
    - (2) Other business of the Appeals Board.
  - J. Public comment for items not on this agenda or subject to a hearing at this meeting.
  - K. Adjournment.
  - L. The deadline to add items to the ZBA meeting agenda shall be no less than 3 business days prior to the next regularly scheduled ZBA meeting.



**ARTICLE VIII: Amendment of Bylaws and Rules of Procedure**

These Bylaws and Rules of Procedure are intended to provide guidance to enable the Village of Roscommon Zoning Board of Appeals to function appropriately. These bylaws may be amended from time to time by the Village of Roscommon Zoning Board of Appeals to bring conformance to changes in State Law or to clarify procedures as set forth herein.

Adopted by the Village of Roscommon Zoning Board of Appeals on this \_\_\_\_\_ day of \_\_\_\_\_

in the year \_\_\_\_\_.

\_\_\_\_\_  
ZBA Chairperson

\_\_\_\_\_  
ZBA Secretary