

CITY OF BRIDGMAN
RULES OF PROCEDURE AND BYLAWS OF THE ZONING BOARD OF APPEALS
Adopted, February 7, 2019

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ARTICLE I – NAME

1. This Board shall be officially known as the City of Bridgman Zoning Board of Appeals, hereinafter called the Zoning Board of Appeals or the ZBA.
2. The ZBA is established pursuant to the City of Bridgman Hybrid Zoning Ordinance, adopted July 10, 2017. Specifically, refer to Article 8 of the Ordinance.

ARTICLE II – PURPOSE AND OBJECTIVES

The purpose of the ZBA is to serve the quasi-judicial function of the Ordinance implementation, interpretation, and enforcement. The ZBA provides a means of resolving zoning related disputes and ensuring equal justice outside of the court system.

Duties of the Board

1. The ZBA shall perform duties and exercise powers as provided in the Ordinance enacted pursuant to Public Act 110 of 2006, as amended (being the Michigan Zoning Enabling Act, M.C.L. 125.3601 *et seq.*) and in such a way that the objectives of the Ordinance shall be observed, public safety secured, and substantial justice done.
2. The ZBA will apply the provisions and follow the guidelines found in Article 8, Section 8.08 of the Ordinance.
3. On appeal, the ZBA may affirm, modify, remand or reverse the decision(s) of the Zoning Administrator or Planning Commission, in accordance with the provisions of Public Act 110 of 2006; M.C.L. 125.3601 *et seq.*
4. An appeal should be taken before the ZBA at the next regular scheduled meeting if time allows to publish notices of the meeting as stated in Section 5 below.
5. Upon receipt of a written request seeking an interpretation of the zoning ordinance, a notice stating the time, date, and place of the public hearing shall be published in a newspaper of general circulation within the community and shall be sent to the person requesting the interpretation not less than 15 days nor more than 60 days before the public hearing. In addition, if the request for an interpretation or appeal of an administrative decision involves a specific parcel, written notice stating the nature of the interpretation request and the time, date, and place of the public hearing on the interpretation request shall be sent by first-class mail or personal delivery to all persons to whom real property is assessed within 300 feet of the boundary of the property in question, and to the occupants of all structures within 300 feet of the boundary of the property in question. If a tenant's name is not known, the term "occupant" may be used.

6. The decision of the ZBA shall be final. A party aggrieved by the decision may appeal to the Circuit Court. (M.C.L. 125.3605)
7. Variances and appeals from the Zoning Ordinance requirements shall be granted only in accordance with the Michigan Zoning Enabling Act, Michigan Public Act 110 of 2006, as amended, and shall be based on findings of fact related to the criteria set forth in City of Bridgman Hybrid Zoning Ordinance, adopted July 10, 2017 Article 8 Section 8.08B of the Ordinance.

ARTICLE III – MEMBERSHIP

Members

1. The Zoning Board of Appeals shall consist of seven (7) members recommended by the City Mayor and affirmed by a majority vote of the City Council. All members shall be appointed for three (3) year terms as terms expire.
2. In addition, the Mayor may recommend up to two (2) alternate members for three (3) year terms subject to the affirmation of the City Council. The alternate members may be called, on a rotating basis, to sit as regular members of the Board of Appeals in the absence of a regular member. An alternate member may also be called to serve in the place of a regular member for purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. The alternate member called shall serve on the case until a final decision is made. The alternate member, when called, has the same voting rights as a regular member of the Board of Appeals.
3. The Chairman of the City of Bridgman Planning Commission who shall serve as Chairman of the Board of Appeals and shall serve so long as he/she remains Chairman of the Planning Commission;
4. One (1) member of the City Council of the City of Bridgman who shall serve so long as they remain members of the City Council; and,
5. Five (5) members of the Board of Appeals shall be electors of the City of Bridgman who own or hold interest in real property in the City of Bridgman assessed for tax purposes. Each elector member shall serve for a term of three (3) years.

Attendance

1. Members are expected to attend all ZBA meetings. If any member of the Board is absent from three consecutive regularly scheduled meetings, then that member shall be considered delinquent. Delinquency shall be grounds for the Bridgman City Council to remove a member from the Board for nonperformance of duty, or misconduct, after holding a public hearing on the matter. The Board recording secretary shall keep attendance records and shall notify the Bridgman City Council whenever any member of

the Board is absent from three consecutive regularly scheduled meetings, so the Council can consider further action allowed under law or excuse the absences.

Removal

1. A member of the ZBA may be removed by the City of Bridgman City Council for misfeasance, malfeasance, or nonfeasance in office upon written charges and after a public hearing. (M.C.L. 125.3601 (9))

Filling Vacancies

1. A vacancy of the ZBA shall be filled for the remainder of the unexpired term in the same manner as the original appointment. (M.C.L. 125.3601 (11))

Incompatibility of Office

1. Each member of the Board 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 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 a financial gain or loss.
 - d. Issuing, deliberating on, voting on, or reviewing a case which is an action which results in a monetary 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.

2. If there is a question whether a conflict of interest exists or not, the question shall be put before the Board. Whether a conflict of interest exists or not shall be determined by a majority vote of the remaining members of the Board.
3. When a conflict of interest exists, the member of the Board, 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 beginning of the meeting which involves the issue in question, and
 - b. cease to participate at the Board meetings, or in any other manner, or represent one's self before the Board, its staff, or others, and
 - c. during deliberation of the agenda item before the Board, leave the meeting for the public hearing, deliberation and vote, until the agenda item is concluded.

Duties of all Members

1. *Ex Parte* contact
 - a. Members shall avoid Ex Parte contact about cases where an administrative decision is before the Board whenever possible.
 - b. 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 Board at a public meeting or hearing what was said, so that every member and other interested parties are made aware of what was said.
2. Not Voting On the Same Issue Twice.

Any member of the Board 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 Board and the member of the Board sits both on the Zoning Board of Appeals and Planning Commission.
 - b. When the case is an administrative decision which was decided by the Board and sent to the City Council for further action, and the member of the Board sits both on the Board and City Council.
3. Accepting gifts.
 - a. Gifts shall not be accepted by a member of the Board or liaisons from anyone connected with an agenda item before the Board.

- b. As used here, gifts, shall mean cash, any tangible item, or service, regardless of value; and food valued over \$10.
- c. This section does not apply to the Board accepting gifts for the exercise of its functions pursuant to M.C.L. 125.3823(3), §23(3) of the Planning Act.

ARTICLE IV – OFFICERS

1. Selection. At the regular meeting in March of each year, the Board shall select from its membership a Vice-Chair and Secretary. All officers are eligible for reelection. In the event the office of the Chair becomes vacant, the Vice-Chair shall succeed to this office for the unexpired term and the Board shall select a successor to the office of Vice-Chair for the unexpired term. The City Clerk shall be the designated recording secretary.
2. Tenure. The Chair shall serve as long as he/she is the Planning Commission Chair, Vice-Chair and Secretary shall take office immediately following their selection and shall hold office for a term of one year or until their successors are selected and assume office.
3. Chair's Duties. The Chair retains his or her ability to discuss, make motions and vote on issues before the Board. The Chair shall:
 - a. Preside at all meetings with all powers under parliamentary procedure;
 - b. 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 Board;
 - c. Restate all motions;
 - d. May call special meetings pursuant to Section 5.3 of these Bylaws;
 - e. Review with the staff, prior to a Board meeting, the items to be on the agenda if he or she so chooses;
 - f. Periodically meet with the City Manager to review operations, procedures, and to monitor progress on various projects.
 - g. Act as the Board's chief spokesman and lobbyist to represent the Board at local, regional, and state government levels.
 - h. Represent the Board before the City Council.

4. Vice-Chair's Duties. The Vice-Chair shall:
 - a. Act in the capacity of the Chair, with all the powers and duties found in Article IV(3) of these Rules, in the Chair's absence.
5. Secretary's Duties. The Secretary shall:
 - a. Be responsible for the minutes of each meeting if there is no recording secretary.
 - b. Review the draft of the minutes prepared by the recording secretary prior to the distribution of the minutes to the Board for approval at a subsequent meeting.
 - c. Sign the minutes upon approval by the Board.
 - d. Act in the capacity of the Chair, with all the powers and duties found in Article IV(3) of these Rules, in the absence of both the Chair and Vice-Chair.

ARTICLE V – MEETINGS

1. All regular and special meetings, hearings, and records shall be open to the public. Meetings shall be conducted under the Open Meetings Act of the State of Michigan.
2. The ZBA shall hold a minimum of 2 regular meetings annually, giving notice of the time and place by publication in a newspaper of general circulation in the zoning jurisdiction. Notice shall be given not less than 15 days before the meeting.
3. After the meeting has been in session for two (2) hours; the Chairperson shall suspend the ZBA's business and evaluate the remaining items on its agenda. The ZBA shall then decide to either finish the current meeting's agenda, continue the meeting on another day (fix the time at which to adjourn), 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. The motion to recess shall include the time, date, and location that the ZBA will reconvene. If more than eighteen (18) hours will pass before the reconvened ZBA meeting, public notice shall be given in compliance with P.A. 267 of 1976, as amended, (being the Michigan Open Meetings 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 it left off, without the addition of any agenda items.
4. Special meetings may be called as appropriate by the Chairperson, by majority vote, signed petition of a majority of the members of the ZBA, or by the Zoning Administrator.
5. The agenda shall be created as follows:

- a. Shall be sent to members no later than seven (7) days prior to a regular meeting.
 - b. Shall be sent to members no later than three (3) days prior to a special meeting.
 - c. The deadline to add items to the agenda shall be seven business days prior to the next regularly scheduled ZBA meeting.
7. The normal order of business at meetings shall be as follows:
- 1) Call to order
 - 2) Pledge of Allegiance
 - 3) Roll call
 - 4) Additions to and approval of the agenda
 - 5) Approval of minutes
 - 6) Hearing of citizens
 - 7) Any business item requiring a public hearing
 - 8) Old business
 - 9) New business
 - 10) City Manager's report (may also be referred to as staff report)
 - 11) Adjournment
8. The case order indicated on the agenda may be adjusted or suspended by a majority of ZBA members present and voting.
9. The ZBA shall not conduct business unless a majority of the regular members of the ZBA are present. (M.C.L. 125.3601 (12)) A quorum shall consist of four (4) of the seven (7) regular members regardless of any vacancies.
- ~~10.~~ Motions addressing issues or cases before the ZBA must be written after all related and relevant information has been presented. Motions shall state the reason(s) for granting or denying a variance, upholding or overturning a decision of the Zoning Administrator or Planning Board, or detail any interpretation made of the ordinance. Motions should state the applicable sections of the ordinance for which a variance is granted or denied or upon which a decision is based.
11. Parliamentary procedure in Board meetings may be informal. At the discretion of the chairperson, if required to keep order, Board meetings may then be governed by Roberts Rules of Order Newly Revised.

12. All proceedings, decisions and resolutions of the Board shall be initiated by motion. Motions made in an administrative capacity, such as rezoning and variances, shall include findings of facts and reasons for the Board's action.
13. An affirmative vote of a majority of those present shall be necessary to pass any motion involving the adoption or amending of plans, policy statements or recommendations to the Council.
14. The concurring vote of a majority of the regular members of the ZBA is necessary to reverse an order, requirement, decision, or determination of the administrative official or body, to decide in favor of the applicant on a matter upon which the ZBA is required to pass under the Ordinance, or to grant a variance in the Ordinance. (M.C.L. 125.3603 (2)) For these specific motions, voting shall be by roll call with each member's vote recorded in the minutes. Members having cause may abstain. Regardless of the number of ZBA members actually present and voting at the meeting, it shall take a minimum of four (4) votes in the affirmative in order to pass the motions specified above in this section. All other motions need only a simple majority of members present and voting in favor of the motion.
15. The City Manager, City Attorney, and other officials of the City may participate in the Board's discussion, but shall not vote, introduce motions, be counted towards quorum, or initiate any other parliamentary action.
16. The presiding officer must vote if the ZBA members present and voting are equally divided.

ARTICLE VI – PROCEDURES

1. Applications shall be made by the owner or by parties who have substantial interest and rights in the premises affected, provided that the owner consents to the request. The applicant may appear in his/her own behalf or may be represented by his/her attorney or agent at the hearing.

Applications and all required supporting documentation are to be submitted to the Zoning Administrator by the filing deadline. Applicants are to be provided with instructions which include the filing deadline. Failure to submit a complete application and/or any required component of the application will result in the case being withdrawn from consideration.

City staff shall provide applications and associated staff reports to the Board at least one week in advance of the meeting that includes the agenda item(s).

2. The usual order of procedure of a public hearing shall be:
 - 1) The Chairperson shall move to open the public hearing and explains the procedure.
 - 2) Applicant presents his/her petition.
 - 3) The public in favor and/or opposed to the proposed change are heard.
 - 4) Closing of public hearing – motion to close shall require majority concurrence for each petition.
 - 5) Discussion by Boarders and opportunity to ask the petitioner questions.
 - 6) Motion and decision by Boarders.

ARTICLE VII – DISPOSITION AND RECORD

The applicant shall be advised of the decision in writing within five (5) days of the final hearing and decision.

The Board shall keep, or cause to be kept, a permanent record of Board meetings and decisions, which shall, at a minimum, include:

- a. A copy of the meeting posting pursuant to P.A. 267 of 1976, as amended, (being the Michigan Open Meetings Act, M.C.L. 15.261 et seq.)
- b. A copy of the minutes, and all its attachments which shall include a summary of the meeting, in chronological sequence of occurrence.
- c. Records of any action, support documents, maps, site plans, photographs, and correspondence received, attached as an appendix to the minutes

Pursuant to the Open Meetings Act 15.269 (3), proposed minutes shall be available for public inspection not more than eight (8) business days after the meeting to which the minutes refer. Approved minutes shall be available for public inspection not later than five (5) business days after the meeting at which the minutes are approved by the public body.

ARTICLE IX – ADOPTION AND AMENDMENTS

Upon adoption of these Bylaws of February 7, 2019 they shall become effective and all previous Bylaws, shall be repealed. These Bylaws may be amended at any regular or special meeting by a two-thirds (2/3) vote of the members present.