



CITY OF
HANCOCK
ESTABLISHED 1863

City of Hancock Zoning Board of Appeals Rules of Procedure

ESTABLISHMENT

The City of Hancock Zoning Board of Appeals (ZBA) adopts these rules according to Public Act 267 of 1976 (as amended), known as the Open Meetings Act, and Public Act 110 of 2006 (as amended), known as the Michigan Zoning Enabling Act.

MEMBERSHIP

1. Board shall consist of five members, one per City Council, one per Planning Commission, and three members at large who the City Council shall appoint.
2. Member's terms will be staggered as established by the City Council
3. The Board shall elect a Chairperson and Recording Secretary each year.
4. The Chairperson shall preside over all meetings.
5. The Recording Secretary shall act in the capacity of the Chairperson in the absence of the Chairperson.
6. Four members of the Board shall constitute a quorum to conduct business.

REGULAR MEETINGS

1. The Zoning Board of Appeals meetings shall be held at the call of the Chairperson and at such times as such Board may determine.
2. The City Clerk will provide notice of all meetings, including date, time, and place shall be posted at City Hall and on the City's website within 10 days of the meeting.
3. The City Clerk shall serve notice to all property owners within 300 feet in all directions from the property and/or lot line of the parcel(s) on the meeting agenda.
4. All meetings are open to the public and shall comply with the Open Meetings Act (Act 267 of 1976).

ORDER OF BUSINESS: A written agenda for all meetings shall be prepared as follows.

- Call to order by Chairperson
- Roll Call of members
- Approval of agenda
- Approval of previous meeting minutes
- Public Comments on agenda items (other than public hearing)
- Communication from staff or members
- Unfinished business from previous meeting (when applicable)
- Public Hearings
 - Explanation of request by the staff

- Presentation of request by the applicant
- Presentation of the staff report
- Open hearing public comment
- Questions to applicant and staff, from ZBA members
- Close public hearing
- Decision from ZBA on applicant's request
- New Business
- Public comments on items not on the agenda
- Adjournment

CONDUCT OF MEETINGS, INCLUDING VOTING

1. The Chairperson is the presiding officer for all Zoning Board of Appeals meetings. The Recording Secretary shall be the presiding officer in the absence or disability of the Chairperson. In the absence or disability of both the Chairperson and Recording Secretary, the City Clerk shall call the meeting to order, and the members present shall select an acting chairperson by a majority vote.
2. The presiding officer shall endeavor to conduct the meeting in a fashion that strikes a balance between the informality and congeniality associated with communities the size of the City of Hancock and the decorum and formality necessary to conduct business in an orderly manner.
3. The presiding officer may speak and vote at meetings as any other member.
4. The ZBA has adopted the current edition of Robert's Rules of Order for conducting meetings. However, Robert's Rules are typically only consulted when parliamentary procedure questions arise and do not supersede the ZBA's Rules of Procedure.
5. Motions are passed by the affirmative vote of the majority of the members present unless dictated otherwise by the City Charter, City Code of Ordinances, State Law, or other recognized authority.
6. Members may elect to abstain from any vote. Abstentions are never counted as votes cast but nevertheless may affect the result of a vote. Abstentions also do not count toward a quorum. Some example situations are given below, all assuming a 5-member body:
 - a. 5 members are present for a motion requiring the affirmative vote of the majority of the members present to pass; 3 ayes, 1 nay, 1 abstention; motion passes 3-1.
 - b. 3 members are present for a motion requiring the affirmative vote of the majority of the members present to pass; 3 ayes, 1 abstention; motion fails for lack of a quorum.
7. Voting is done by seating order, oscillating from right to left and left to right throughout each meeting.
8. Voice votes shall be deemed to have passed unanimously if no member states opposition to the motion.
9. The presiding officer may call for a roll call vote as opposed to a voice vote at any time.
10. The presiding officer shall declare the result of every vote taken.
11. Members must be physically present at a meeting to vote and to contribute to a quorum.
12. During Board discussion, Members shall endeavor to speak in an orderly and courteous manner, confine comments to the topic at hand, and avoid interrupting others except by point of order. The presiding officer shall maintain order and decorum and may require speakers to be recognized if a less formal environment is contributing to a discussion becoming non-productive.
13. Any ruling of the presiding officer regarding the interpretation of the ZBA's Rules of Procedure (including interpretations of Robert's Rules of Order) is subject to appeal by any Member. Such appeals shall be determined by a majority vote of the Members present. Appeals should be made as immediately as

possible, and the presiding officer should assume that, in the absence of an appeal, the ZBA is in general agreement with their interpretation.

CONFLICT OF INTEREST

- A conflict of interest is any interest competing with or adverse to a member's primary duty of loyalty to the public interest. Pursuant to Act 196 of 1973, commonly referred to as the "State Ethics Act," Members shall not:
 - divulge confidential information.
 - represent their opinion as that of the ZBA.
 - use City personnel, property, or funds for personal gain or benefit.
 - solicit or accept gifts/loans/goods/services, etc. which tend to influence their performance of official duties.
 - engage in a business transaction in which they may profit from confidential information.
 - engage in or accept employment/render services for a public or private interest which is incompatible/in conflict with the discharge of official duties or which may tend to impair their independence of judgment.
 - participate in the negotiation or execution of contracts/making loans/granting subsidies/fixing rates/issuing permits, certificates, or other regulation/supervision relating to a business entity in which the ZBA member has a financial or personal interest.

Please see MCL 15.342 and the full State Ethics Act for greater detail. Also see Act 317 of 1968 regarding prohibitions on Members from pursuing certain public contracts and Act 566 of 1978 regarding incompatible public offices.

1. Members are obligated to disclose any real, potential, or perceived conflict of interest pertaining to themselves and/or other members as soon as it is known to them. Such real, potential or perceived conflicts of interest may involve a member of their immediate family or household, their employer or employee, or any entity in which the Member or other person identified above has a personal financial interest. Ideally, this is done in advance of any meeting for which an agenda item may represent a conflict of interest for one or more Members.
2. If the issue of a real, potential, or perceived conflict of interest is raised and the Member who may have a conflict of interest (aka the Member in question) does not recuse themselves from voting, any other Member may motion for the Member in question to be excused (prohibited) from voting on the particular agenda item in question. If such a motion is seconded and 2/3 of the Members present, not including the Member in question, vote affirmatively to excuse the Member in question from voting, then the Member in question will be recorded as abstaining on the particular agenda item in question.
3. A Member who has expressed their intention to abstain from voting or has been excused from voting by the remainder of the Board due to a real, potential, or perceived conflict of interest may not participate in the discussion pertaining to the particular agenda item in question.
4. An interest that a member shares in common with the general public interest does not constitute a conflict of interest.
5. No Member may vote on a matter in which they have a proprietary or financial interest in or which they may gain a financial benefit from.

PUBLIC PARTICIPATION

1. Members of the public are invited and encouraged to attend all meetings of the Zoning Board of Appeals.
2. Members of the public shall have the opportunity to address the Board at every meeting during the designated public comment period(s). Persons addressing the Board shall state their name, residential address, and affiliation with the City (if applicable). Individual speakers' duration may be limited, with typical limits ranging from three (3) to five (5) minutes.
3. During public hearings, public comment shall be limited to the subject of the public hearing.
4. At times, it is desirable to include one or more audience members (City staff, commission members, contractors, affected members of the public, etc.) in the Board discussion. The presiding officer may allow an audience member to participate in the ZBA discussion at their discretion. Other Members wishing to engage a member of the audience in Board discussion shall make such a request to the presiding officer.
5. Any member objecting to a decision of the presiding officer with respect to this section may raise a prompt objection. Such objections shall be determined by a majority vote of the ZBA members present. The presiding officer should assume that, in the absence of an objection, the ZBA is in general agreement with their action.

ELECTION OF CHAIRPERSON AND RECORDING SECRETARY

A Chairperson and Recording Secretary are elected by the Zoning Board of Appeals from the members each year and whenever a vacancy occurs in either position.

Election of Chairperson:

1. The City Clerk, or the designee thereof, is the initial presiding officer at the initial meeting each year.
2. The presiding officer calls for nominations from the floor for Chairperson.
3. Any Councilor may make a nomination for Chairperson. Nominations need not be seconded and Members may nominate themselves. Members need not be present to be nominated. Each Member is limited to making one nomination that is not declined (see below).
4. The presiding officer repeats the name of the nominee for the assembly.
5. The Member nominated may decline the nomination and, in the absence, thereof is presumed to accept the nomination. If the Member nominated is not present it is recommended, but not necessary, to have foreknowledge that the Member is willing to serve in the position if elected.
6. Nominations are accepted from the floor until it appears that all Members desiring to make a nomination have spoken. The presiding officer then asks the assembly if there are any further nominations. The presiding officer closes nominations when no further are forthcoming.
7. Following the close of nominations, the presiding officer repeats the names of the nominees to the assembly in the order in which they were nominated.
8. If there is only one nominee, the presiding officer calls for a vote for the election. If there are multiple nominees, the presiding officer calls for a vote for the election of the first nominee. If the

first nominee receives the affirmative vote of the majority of the Members present, they are elected. Otherwise, the presiding officer calls for a vote for the election of the second nominee. If the second nominee receives the affirmative vote of the majority of the Members present, they are elected. Voting continues in this manner until someone is elected.

9. If present, the Chairperson becomes the presiding officer immediately upon election.

Election of Recording Secretary

1. The Chairperson, or the presiding officer in the absence or disability of the Chairperson, calls for nominations from the floor for Recording Secretary.
2. Nominations and voting proceed in the identical manner as described for the election of Chairperson above.

SUSPENSION OF RULES

Any portion of the ZBA Rules of Procedure may be temporarily suspended by a majority vote of the Zoning Board of Appeals.

MISCELLANEOUS

1. The ZBA Rules of Procedure are not all-inclusive in that they do not contain every situation the Council may encounter. The ZBA is advised to use common sense when dealing with a topic not within the Rules.
2. The ZBA Rules of procedure may be amended by a majority vote of the Zoning Board of Appeals.

CONTROLLING AUTHORITY

1. The Zoning Board of Appeals Rules of Procedure shall be followed unless superseded by the City Charter, City Code of Ordinances, State Law, or other recognized authority.

Motion: Member Paul LaBine

Second: Member Steve Walton

Aye: All

No; None

Motion Carried

Date: May 16, 2022