

ADOPTED: NOVEMBER 20, 2018
EFFECTIVE: NOVEMBER 21, 2018

CHARTER TOWNSHIP OF WATERFORD ZONING BOARD OF APPEALS BYLAWS

ARTICLE I – NAME AND PURPOSE

The name of this Board shall be the Waterford Township Zoning Board of Appeals. The Board is formed under and pursuant to the Waterford Township Zoning Ordinance Section 5-001.3. The assigned and designated purposes, authority and duties of the Board are set forth in the Waterford Township Zoning Ordinance as follows: to act on those matters where the Zoning Ordinance provides for administrative review/appeal and interpretation, and to authorize variances in the bulk regulations established by the Zoning Ordinance. The ZBA shall not have the authority to alter or change zoning district classifications of any property, establish uses that are not permitted, nor to make any change in the text of the Zoning Ordinance, except to correct clear errors in punctuation, spelling, or publishing.

ARTICLE II –MEMBERSHIP AND LIAISONS

Section 1. Members. The number of regular and alternate members and terms of membership of the Zoning Board of Appeals are as set forth in the Waterford Township Zoning Ordinance and in such duties assigned by resolution or general ordinance of the Township Board.

Section 2. Terms. Members are expected to serve until their term expires and a successor has been appointed and approved as provided in the Waterford Township Zoning Ordinance. Members who are unable or unwilling to serve the entire terms for which they were appointed or who do not wish to be considered for reappointment shall provide sixty (60) days advance written notice of that fact to the Township Supervisor and the Zoning Official so that a successor may be appointed and approved in a timely manner that does not require the Board to function with less than a full seven (7) member Board.

Section 3. Absences. Unexcused absence of a member from three (3) regularly scheduled meetings may subject a member to removal from the Zoning Board of Appeals. The Zoning Official shall convey absenteeism to the Township Board for consideration at a public hearing. If alternate members are appointed, a regular member shall report to the Chairman and/or Secretary his or her inability to attend a meeting as soon as it is known to enable the Chairman and/or Secretary to contact an alternate member to attend in place of the regular member.

Section 4. Removal. A member of the Zoning Board of Appeals may be removed by the Township Supervisor, with the approval of the Township Board, for misfeasance, malfeasance, or nonfeasance in office upon written charges and after a public hearing.

Section 5. Staff Liaison. The Township Board, or its designee, may assign one or more members of the Township administration to assist and serve as a liaison to the Board, who shall serve at the pleasure of the Township Board or its designee. A staff liaison may attend the meetings of and provide information and input to the Board, and may

assist with the preparation of

agendas and minutes, but shall not have a vote on any matter coming before the Board. The presence of a staff liaison at a meeting shall not count toward the establishment of a quorum.

ARTICLE III - OFFICERS AND THEIR DUTIES

Section 1. Officers. The officers shall be a Chairperson, Vice Chairperson and Secretary. The officers shall be members of the Board.

Section 2. Chairperson. The Chairperson shall preside at all meetings and hearings of the Zoning Board of Appeals, rule on all points of order raised at meetings, call special meetings subject to the requirements of these Bylaws, consult with staff on the preparation of agendas, and shall have all other powers and duties necessary or incidental to the office of Chairperson and/or as ordered by the Zoning Board of Appeals and Township Board. The Chairperson shall not be a member of the Township Board. The Chairperson shall have a vote on all matters before the Board.

Section 3. Vice Chairperson. The Vice Chairperson shall act in the capacity of the Chairperson in the Chairperson's absence, and shall perform any other duties as determined by the Board or applicable law. The Vice Chairperson shall not be a member of the Township Board.

Section 4. Secretary. The Secretary shall execute documents in the name of the Zoning Board of Appeals and perform such duties as the Board may determine or as provided by law, with the assistance of the Zoning Official or designee.

ARTICLE IV -OFFICER ELECTION AND VACANCIES

Section 1. Timing of Election. The election of officers shall be held at the first regular meeting of the Board in each calendar year.

Section 2. Nominations. Nominations shall be made from the floor by any Zoning Board of Appeal member and the election shall be held immediately thereafter.

Section 3. Election. A candidate receiving a majority vote of the entire membership of the Board shall be declared elected and shall serve a term of one year.

Section 4. Term of Office. Officers shall serve terms of one (1) year. The Board may re-nominate and re-elect any or all of the same officers to consecutive terms without limit.

Section 5. Vacancies. Vacancies in office shall be filled immediately by regular election procedures outlined in Sections 2-3 above.

ARTICLE V - MEETINGS AND VOTING

Section 1. Regular Meetings. Prior to December of each calendar year, the Board shall establish a regular meeting schedule for the upcoming calendar year.

Section 2. Special Meetings. Special meetings may be called by the Chairperson or by two members upon written request to the Zoning Official. When authorized by the Board, the Zoning Official may arrange a special meeting for an applicant willing to pay for the full cost of holding the meeting in addition to any other fees charged for the applicant's required review. For such special meetings, the Zoning Official shall communicate with each of the Board members and arrange a meeting date and time convenient to at least a majority of the Board.

Section 3. On-Site Inspections. Individual Zoning Board of Appeals members may, if they choose, conduct their own individual on-site inspections.

Section 4. Quorum and Transaction of Business. A quorum shall consist of four (4) members. An affirmative vote of four (4) members shall be necessary to pass any motion (unless otherwise specified herein).

Section 5. Voting. Voting shall be by voice vote except where a roll call vote is requested by any voting member or required by law or other procedures under these Bylaws. Each member shall cast a "yea" or "nay" vote on each question before the Board. Except in the case of a conflict of interest, all Board members shall vote on all matters. If there is a question as to the number of yea or nay votes, a roll call shall be conducted.

Section 6. Open Meetings Act Compliance. All meetings of the Board, including special meetings, shall be open to the public in accordance with the provisions of Michigan Open Meetings Act, Public Act 267 of 1976, as amended. Closed sessions may be called for purposes listed in said Act if approved by a 2/3 roll call vote of the appointed and serving members.

Section 7. Freedom of Information Act Compliance. All meetings and members of the Board shall comply, in all respects, with the Michigan Freedom of Information Act, Act 442 of 1976, as amended.

Section 8. Rules of Procedure. The Board shall consult the most recent version of Robert's Rules of Order as a guideline for conducting meetings, where necessary, provided that they are not in conflict with these Bylaws or any applicable State law or Township Code or policy. Final procedural decisions shall be decided by the Chairperson.

Section 9. Conflict of Interest. No member of the Board shall vote on any issue in which he or she may reasonably be considered to have a conflict of interest or the member's participation would result in a violation of the Incompatible Public Offices Act, 566 PA 1978 (MCL 15.181 et seq.), or any other state law or Township charter, ordinance, ethics code or policy provision applicable to Township officials and conflicts of interest. If a member could reasonably be considered to have such a conflict of interest pertaining to a matter that is to be addressed or considered by the Board, before participating in any discussion or casting a vote on such a matter, the member shall disclose the conflict of interest to the Board. Unless the Board concludes, upon a majority vote of the remaining members, that the member's participation does not constitute a conflict of interest and that his or her participation and vote will not be affected by his or her interest, the member shall leave his or her seat at the dais or meeting table and shall abstain from discussion and voting on the matter. A member shall not appear before the Board as an advocate in relation to any matter in which he or she has abstained for reasons of conflict of interest. A Board member shall not, as provided by MCL 125.3601(13), participate in a public hearing on the same matter that the member voted on as

a member of the Planning Commission or Township Board.

However, the member may consider and vote on other unrelated matters involving the same property. Where a member abstains due to conflict of interest, an alternate member, if available, may participate in a hearing and vote in place of the abstaining member.

Section 10. Minutes. In coordination with its designated staff liaison, if any, the Board shall keep and approve minutes of its meetings in accordance with the Open Meetings Act. Minutes, resolutions, and any other similar record of the proceedings of the Board, when signed by the Chairperson or Secretary, shall be presumed truthfully to evidence the matters set forth therein. A recitation in a resolution or the minutes of any such meeting that notice of the meeting was properly given shall be *prima facie* evidence that such notice was given. Pursuant to the Michigan Open Meetings Act, minutes shall show the date, time, place, members present, members absent, any resolution adopted and decision made at a meeting open to the public, and the purpose or purposes for which any closed session is held. The minutes shall include all roll call votes taken at the meeting. The Board shall make any corrections in the minutes at the next meeting after the meeting to which the minutes refer.

ARTICLE VI – APPEALS FROM ADMINISTRATIVE DECISIONS AND PLANNING COMMISSION SPECIAL APPROVAL DECISIONS

Section 1. Time to Appeal. For appeals to the Board by a person aggrieved by an administrative decision governed by Zoning Ordinance Section 6-100.4(F), or of a Planning Commission Special Approval decision made in accordance with Zoning Ordinance Section 4-006 and governed by Zoning Ordinance Section 6-100.4(G), the appeal must be filed with the Zoning Official within 30 days from the date on which the decision was made, or for appeals of decisions made prior to the adoption of these Bylaws, within 30 days of the date that the Zoning Official provides first class mailed written notice of the adoption of these Bylaws and a copy of this Article VI, which for Special Approval decisions shall be provided to the persons that were notified of the Planning Commission's public hearing at the addresses used in those notices.

Section 2. Scheduling of Appeal Hearing. Upon receipt of an appeal of an administrative decision or Planning Commission Special Approval decision, the Zoning Official shall place the appeal on the agenda of the next available regularly scheduled Board meeting, in accordance with the scheduling and notice requirements established by all applicable statutes, ordinances, and these bylaws.

Section 3. Appeal Hearing Procedure. A hearing on an appeal of an administrative decision or a Planning Commission Special Approval decision shall follow the requirements of Article VII of these Bylaws, except that the Board shall be limited to reviewing the record of the administrative or Planning Commission decision being appealed to determine whether the decision being appealed complies with the applicable standards of the Zoning Ordinance. The Board shall not consider new information

which had not been presented to the

administrative official or Planning Commission from whom the appeal is taken. If documentation is presented that supports the fact that newly discovered relevant information exists, the Board may remand the matter to the administrative officer or Planning Commission for consideration of that information.

ARTICLE VII – MEETING ORDER OF BUSINESS AND HEARING PROCEDURE

Section 1. Meeting Procedure. The order of business at each meeting shall be:

1. Call Meeting to Order
2. Roll Call
3. Approval of Minutes
4. Approval of Agenda
5. Old Business
6. New Business
7. Discussions
8. All Else
9. Public Comment
10. Adjourn Meeting

Section 2. Hearing Procedure. The order of business for each hearing shall be:

1. The Chairperson calls the agenda item.
2. The proponent and/or representative presents their request.
3. If requested by the Board, Township staff and/or any consultants provide their review of the request.
4. Board members may question the proponent and staff / consultants.
5. The Chairperson declares the public hearing open.
6. Public comment, if any, is recognized by the Chairperson and received.
7. The Chairperson declares the public hearing closed.
8. The Board deliberates and decides the matter, or takes such other action as it deems appropriate.

Section 3. Public Participation. Members of the public may speak when recognized by the Chairperson during a formal public hearing, during a public comment period, or at the discretion of the Chairperson at other times. Upon being recognized, the speaker shall provide his or her name and the street upon which he or she lives for the record, and the speaker shall address the Board only and shall not engage in direct dialogue with others attending the meeting. Members of the public who speak at a meeting may be limited to a number of minutes determined by the Board and announced at the start of the meeting and/or public hearing, and additional time may be granted in the discretion of the Chairperson. The Chairperson may limit an individual from speaking more than once on any specific item before the Board or during an open public comment period. Upon the request of a member of the Board or in the Chairperson's own discretion, the Chairperson may grant additional time to a speaker and may recognize and allow a member of the public to address the Board at a time other than as designated in these Bylaws; however, all other rules as provided herein shall apply.

Section 4. Disorderly Conduct at Meetings. Persons addressing the Board shall direct their attention and comment to the Board only and shall not engage in direct dialogue or communications of

kind with others attending the meeting. All speakers at meetings of the Board shall make responsible comments and shall refrain from making personal, impertinent, slanderous or profane remarks. The Chairperson may call to order any person who is being disorderly by speaking when not recognized by the Chair or otherwise disrupting the proceeding by failing to be germane, by speaking longer than the allotted time, by speaking vulgarities, or otherwise violating the rules in this Section or Section 3, above. Such person shall thereupon be seated until the Chairperson shall have determined whether the person is in order and that person shall not be permitted to speak at the same meeting, except upon special leave by the Board. If the person shall continue to be disorderly and disrupt the meeting, the Chairperson may request the person to be removed from the meeting.

ARTICLE VIII – ADOPTION AND AMENDMENT OF BYLAWS

Section 1. Adoption of Bylaws. These Bylaws shall be adopted upon being placed on an agenda of the Board and receiving an affirmative vote of at least five (5) members of the Board.

Section 2. Proposal of Amendments. Amendments to these Bylaws may be proposed by any active member of the Board or a member of the Township staff.

Section 3. Approval of Amendments. Upon any amendment being proposed, the proposed amendment may be considered at the same meeting or any subsequent regular or special meeting. Amendments shall be adopted only upon an affirmative vote of at least five (5) members of the Board.

ARTICLE IX - REPEALER, CONFLICTS AND SEVERABILITY

Section 1. Repealer. These Bylaws are adopted pursuant to the Waterford Township Zoning Ordinance and amend, restate and supersede any and all prior bylaws adopted by the Board. Any prior bylaws are repealed in their entirety.

Section 2. Conflict. Should any provisions of these Bylaws be inconsistent with the provisions of applicable Public Acts of the State of Michigan, as amended, or any other applicable law, the provisions of said Acts or law will prevail.

Section 3. Severability. In the event that any of the terms, provisions, or covenants of these Bylaws are held to be partially or wholly invalid or unenforceable for any reason whatsoever, such holding shall not affect, alter, modify, or impair any of the other terms, provisions or covenants of these Bylaws or the remaining portions of any terms, provisions or covenants held to be partially invalid or unenforceable.