

VILLAGE OF MILLINGTON
ZONING BOARD OF APPEALS
BY-LAWS

As originally adopted by the Village of Millington Zoning Board of Appeals – November 13, 2023

ARTICLE I
AUTHORITY

- 1.1 These Rules of Procedure are adopted by the Village of Millington Zoning Board of Appeals (the “Board”) pursuant to Public Act 110 of 2006, the Michigan Zoning Enabling Act, and Public Act 267 of 1976, as amended, the Open Meetings Act.

ARTICLE II
MEMBERSHIP

- 2.1 Members. As authorized by the Michigan Zoning Enabling Act, PA 110 of 2006, as amended, the Millington Village Council shall serve as the zoning board of appeals (ZBA).
- 2.2 Terms. The members of the Board shall serve on this board for the duration of their tenure in elected office as member of the Village Council.
- 2.3 Attendance. Attendance will be taken at all meetings of the Board.
- 2.4 Officers. At the January meeting, the Board shall elect from its membership a Chairperson and Vice-Chairperson who shall serve for a twelve-month period and who shall be eligible for re-election. The officers shall take office immediately following their selection. They shall hold their office for a term of one (1) year, or until successors are elected and assume office.
- 2.5 Duties.
- A. Chairperson
1. The Chairperson shall preside at all meetings of the Board.
 2. The Chairperson shall appoint all committees or advisory committees established and provided by the Board.
 3. Call special meetings pursuant to these By-laws and Rules of Procedure.
 4. Ensure all actions of the Board are properly taken and perform such other duties as may be ordered by the Board.

5. Such other duties as may be ordered by the Board.

B. Vice-Chairperson

1. In the event of the absence of the Chairperson or during his or her inability to discharge the duties of the office of Chairperson, such duties shall, for the time being, be performed by the Vice-Chairperson.
2. In the event that both the Chairperson and the Vice-Chairperson are absent from a meeting, the members present shall designate a member of the Board as acting Chairperson for the meeting.

2.6 Vacancies. If a vacancy occurs on the Board, the vacancy shall be filled for the unexpired term in the same manner as provided for the original appointment. If a vacancy occurs in the office of Chairperson, the Vice-Chairperson shall serve as Chairperson until a new Chairperson is elected. All Board members shall hold office until his or her successor is appointed.

ARTICLE III

MEETINGS

3.1 Meeting Notices. Notice of all meetings shall be posted at the Village Hall according to the Open Meetings Act. The notice shall include the date and time of the meeting.

3.2 Regular Meetings. Meetings of the Board shall be set as needed.

3.3 Special Meetings. A special meeting may be called by the Chairperson or by two members of the Board upon written request to the Village Clerk. The business which the Board may perform at a special meeting shall be set forth in the notice of the meeting. The special meeting shall be conducted as a public meeting of the Board held in compliance with the Open Meetings Act. Public Notice of the time, date, and place of the special meeting shall be given in a manner as required by the Open Meetings Act, and the Municipal Planning Act if applicable and the Clerk shall send written notice of a special meeting to Board members not less than 48 hours in advance of the meeting.

3.4 Quorum. Four (4) members of the Board shall constitute a quorum. In order for the Board to conduct business or take any official action, a quorum shall be present. When a quorum is not present, no official action, except for closing the meeting may take place. The members of the Board may discuss matters of interest but may take no action until the next regular or special meeting.

3.5 Hearings. Hearings shall be scheduled, and due notice given in accordance with the Open Meetings Act and the Planning Enabling Act and Zoning Enabling Act as may be applicable.

Public hearings conducted by the Board shall be run in an orderly and timely fashion. This shall be accomplished by the following procedure:

- A. The Chairperson shall open the hearing indicating the basic nature of the request, citing public notice in official newspaper, and notification of neighboring properties (if applicable).
- B. The Chairperson shall announce the order of the hearing which is as follows:
 - 1. Review by Village staff/professionals.
 - 2. Comments and explanations by applicant.
 - 3. Questions from the Board.
 - 4. Responses by Village staff/professionals and/or applicant.
 - 5. Opening of hearing for public comments.
 - 6. Close hearing to public comments.
 - 7. Responses by Village staff/professionals and/or applicant.
- C. Public comment during hearings shall be limited to five (5) minutes per person. By consensus of the Board, additional speaking time may be allotted to a member of the public to present additional information.

3.6 Public Participation. All regular and special meetings, hearings, records and accounts shall be open to the public. The following procedures shall apply for public comment during all regular and special meetings.

- A. All public comments on all agenda items and non-agenda items outside of public hearings 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, the Board may direct questions to members of the public. Public comment is at the beginning of the meeting so the Board 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.
- B. Public comment during the public comment section of the agenda shall be limited to five (5) minutes per person. By consensus of the Board, additional speaking time may be allotted to a member of the public to present additional information.
- C. Where determinations of appropriateness of comments are necessary, the decision shall be made by the Chairperson.

3.7 Motions. Motions shall be restated by the Chairperson before a vote is taken. The name of the maker and supporter of the motions shall be recorded.

3.8 Voting.

- A. An affirmative vote of the majority of the members of the Board present at a meeting shall be required for the approval of any requested action or motion placed before the Board, unless the Zoning Enabling Act or other statute requires an affirmative vote of the majority of the total membership which is five (5) members.
 - B. Voting shall ordinarily be voice vote; provided however that a roll call vote shall be required if requested by any Board member or directed by the Chairperson.
 - C. All members of the Board including the Chairperson shall vote on all matters. Any member may be excused from voting but only if that person has an actual conflict of interest as set forth in Section 9 herein.
- 3.9 Order of Business. A written agenda for all regular and special meetings shall be prepared as follows. The order of business shall be:
- A. Call to Order/Attendance.
 - B. Approval of Minutes.
 - C. Public Comments.
 - D. Public Hearings.
 - E. Old Business.
 - F. New Business.
 - G. Planning and Zoning Administrator's Report.
 - H. Adjournment.
- 3.10 Rules of Order. All meetings of the Board and any committees shall be conducted in accordance with generally accepted parliamentary procedure, as governed by "Robert's Rules of Order".
- 3.11 Notice of Decision. A written notice containing the decision of the Board will be sent to the applicant of the request.

ARTICLE IV

MINUTES

- 4.1 Board minutes shall be prepared under the supervision of the Recording Secretary of the Board as identified below. The minutes shall contain a brief synopsis of the meeting, including a complete restatement of all motions and recording of votes; complete statement of the conditions or recommendations made on any action; and a recording of attendance. All communications, actions, and resolutions shall be attached to the minutes. The official records shall be deposited with and kept by the Village Clerk/Recording Secretary.

ARTICLE V

STAFF

- 5.1 Recording Secretary. The Village Clerk shall be the Recording Secretary of the Board. The Recording Secretary shall keep minutes of all meetings of the Board and sign the adopted version of the minutes. The Recording Secretary shall be responsible for all notices pertaining to meetings and recording of official acts of the Board. The Recording Secretary/Village Clerk shall not be a member of the Board.
- 5.2 Planning and Zoning Administrator. The Planning and Zoning Administrator, or Village Clerk, shall be responsible for all agendas, staff reports, correspondence and notices pertaining to meetings and official acts of the Board.

ARTICLE VI

DEMAND FOR APPEAL

6.1 Filing. The following may file for an appeal

- A. Any aggrieved person, or the person's authorized agent;
- B. Officer, department, board, or bureau of the state; and
- C. Officer, department, board, or bureau of a local unit of government.

6.2 The filing for an appeal of a decision or for a variance shall be in writing on a form provided by the Planning & Zoning Administrator, and upon payment of a fee as may be established from time to time by the legislative body. Such Demand for Appeal shall be filed with the zoning administrator 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 zoning administrator at any time.

6.3 Notification. Within 10 days from the date of the receipt of the Demand for Appeal which is found to be complete, the zoning administrator shall contact the Chairperson of the Board and set up a date(s) and time for the Board to meet to hold a hearing and a meeting to consider and act on the case. Notice of such meeting(s) shall be made by the zoning administrator as specified in these Rules of Procedure.

6.4 Deadline for Action. The above notwithstanding, the Board shall hear the case and render and file its decision with a statement of reasons for the decision with the zoning administrator not more than 30 days after receipt of the case, unless a longer period of time is mutually agreed upon by the petitioner and Board.

6.5 Notice of Decision. A written notice containing the decision of the Board will be sent to the applicant of the request.

ARTICLE VII

OPEN MEETINGS AND FREEDOM OF INFORMATION PROVISIONS

- 7.1 All meetings of the Board shall be opened to the public and held in a place available to the general public.
- 7.2 All deliberations and decisions of the Board shall be made at a meeting open to the public.
- 7.3 A person shall be permitted to address a hearing of the Board under the rules established in Subsection 3.5, and to address the Board concerning non-hearing matters under the rules established in Subsection 3.6 to the extent that they are applicable.
- 7.4 All records, files, publications, correspondence, and other materials are available to the public for reading, copying and other purposes and are governed by the Michigan Freedom of Information Act.

ARTICLE VIII

ANNUAL REPORT

- 8.1 The Board shall, before the 28th day of January of each year, have accessible, a written report of its activities covering the previous year, indicating the status of planning activities including recommendations regarding actions by the Village Council related to planning and zoning. This report will be placed into the Planning Commission Annual Report.

ARTICLE IX

CONFLICT OF INTEREST

- 9.1 A Board member shall vote on all matters unless there is a legitimate conflict of interest. If a Board member has a conflict of interest as to any matter before the Board, he or she shall not vote on the matter.
- 9.2 As used herein, 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 immediately 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 pecuniary benefit to him or her.
 - E. Issuing, deliberating on, voting on, or reviewing a case concerning his or her spouse, children, step-children, 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 pecuniary interest in the outcome.
- 9.3 If there is a question whether a conflict of interest exists or not, the question shall be put before the Board. Whether or not a conflict of interest exists shall be determined by a majority vote of the remaining members of the Board.
- 9.4 When a conflict of interest exists, the member of the Board shall do the following immediately, upon first knowledge of the case and determining that a conflict exists:
- A. Declare a conflict exists at the first subsequent meeting of the Board.
 - B. Cease to participate in the Board meetings, or in any other manner, or represent oneself before the Board.

ARTICLE X

AMENDMENTS

- 10.1 The Board may amend these rules by a concurring vote pursuant to Subsection 3.8, during any regular meeting, provided that all members have received an advance copy of the proposed amendments at least three days prior to the meeting at which such amendments are to be considered.

ARTICLE XI
ADOPTION

- 11.1 These Zoning Board of Appeals Bylaws and Rules of Procedure were adopted at a regular meeting of the Board held on November 13, 2023.

ARTICLE XII
FILING

- 12.1 Filed with the Village Clerk on November 14, 2023.

Kaylene Long, Village Clerk 11.14.23