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*"The City of Harrison is an Equal Opportunity Employer and Provider"*

## Zoning Board of Appeals Bylaws

### I. Name & Purpose

- A. The board will be referred to as the "Zoning Board of Appeals" or "ZBA."
- B. These Bylaws are set forth to guide the ZBA in its duties as outlined in Act 207, P.A. 1921, State of Michigan, the City and Village Zoning Act, and the City of Harrison Zoning Ordinance, Article 10.
- C. These Bylaws aid the ZBA's responsibilities regarding appeals, interpretations, and variances as derived from the City of Harrison Zoning Ordinance.

### II. Membership

- A. **Members:** Members of the Zoning Board of Appeals (ZBA) shall be appointed by the City Council, in accordance with the provisions laid out in the City and Village Zoning Act, or as otherwise specified in the relevant statutes and ordinances.
- B. **Member Composition:** The composition of the ZBA should be such that it reflects a balanced representation of the various interests within the city, ensuring diverse perspectives and fair decision-making.
- C. **Terms of Office:** Typically, ZBA members will serve for staggered three (3) year terms to ensure continuity and experience are maintained within the board, with the terms arranged so that approximately one-third (1/3) of the members' terms will end each year. However, when the City Council acts as the ZBA, Council members' terms on the ZBA will run congruently with their terms on the City Council, ensuring alignment in



representation and decision-making.

- D. **Attendance:** Members are expected to attend all meetings. Any member who misses three consecutive meetings without being duly excused may be recommended for removal from the ZBA. Members must communicate their inability to attend to the Chairman or City Manager prior to the meeting for them to be excused.
- E. **Voting Rights:** Only duly appointed members of the ZBA shall possess the right to vote on matters before the board, maintaining the integrity and legitimacy of the board's decisions.
- F. **Code of Conduct:** All members of the ZBA are expected to act in the city's best interest, avoiding any potential conflicts of interest or situations that could compromise the impartiality and objectivity of the board.
- G. **Removal:** Members may be removed by the City Council for reasons including but not limited to inefficiency, neglect of duty, or malfeasance, maintaining the highest standards of conduct and performance within the ZBA. Members must recuse themselves from discussions and votes in which they have a direct or indirect financial or personal interest.

### III. Officers

- A. **Selection:** When the City Council is acting as the Zoning Board of Appeals (ZBA), the Mayor shall serve as the Chairman, and the Mayor Pro-tem shall serve as the Vice Chairman. In these instances, another member of the City Council, appointed by the Mayor, may fulfill the role of Secretary if deemed necessary. Otherwise, the ZBA will elect its Chairman, Vice Chairman, and Secretary from among its appointed members and may create and fill other offices as it deems necessary.
- B. **Terms of Office:** The terms of the Chairman, Vice Chairman, and Secretary will be one (1) year in length or until their successors are elected, with eligibility for re-election.



- C. **Duties:** The Chairman will preside over all meetings of the ZBA, performing the duties outlined in these bylaws and by the parliamentary authority adopted by the ZBA. In the Chairman's absence or disability, the Vice Chairman will perform the Chairman's duties. The City Manager or a designated city official will serve as the official recorder for the meetings, ensuring the accurate recording and maintenance of the meeting records.
  
- D. **Vacancies:** If a vacancy occurs in any office, the ZBA will elect another appointed member to fill such vacancy in the same manner and under the same conditions outlined above for the remainder of the term of said office.

## IV. Meetings

- A. **Meetings:** Given the nature of the ZBA's functions, it does not have regular meetings but convenes as required or needed. All meetings are considered Special Meetings and will be properly noticed in accordance with applicable laws and ordinances.
  
- B. **Agenda for Special Meetings:**
  - a. **Meeting Called to Order:**
  - b. **Roll Call:**
  - c. **Pledge of Allegiance:** [Only if the ZBA meeting does not immediately follow another meeting where the pledge has already been recited.]
  - d. **Approval of Previous Minutes:**
  - e. **Public Hearing:** [Specify the subject property]
  - f. **Final Comments**
  - g. **Decision on Appeal/Findings of Fact**
  - h. **Adjournment**
  
- C. **Calling Special Meetings:** Special Meetings are generally convened by the City Manager upon receipt of an appeal request and subsequent payment of the associated fee. However, such meetings can also be initiated by the Chairman or any two appointed members of the ZBA when matters arise that



necessitate the assembly of the board.

- D. **Quorum:** A simple majority of the board constitutes a quorum for conducting official business.
- E. **Hearings:** Public hearings are scheduled as needed, and are conducted to ensure timely and orderly proceedings, in compliance with relevant legislation.
- F. **Recess:** If a meeting exceeds two hours, a recess may be called to assess the remaining agenda items, and if necessary, reschedule them to a later date in adherence with open meeting laws.
- G. **Public Participation:**
  - a. The public is encouraged to attend all meetings of the ZBA. All meetings will comply with Open Meeting Act, ensuring transparency and accessibility.
  - b. Members of the public wishing to speak on an agenda item may do so during the allocated time, maintaining order and respectfulness.
  - c. The Chairman may limit speaking time if necessary to maintain order and ensure all participants have a chance to speak.
  - d. Public comments and suggestions are welcome and will be duly considered by the ZBA in their deliberations.
- H. **Recording Votes:** All votes at any meeting shall be taken by roll call and entered upon the records

## V. Appeals

The ZBA is empowered to engage in the following matters as per the city ordinance:

- A. **Hear and decide appeals** where it is alleged there is an error in any order, requirement, decision, or determination made by an administrative official charged with the enforcement of the Zoning



Ordinance.

- B. Interpret the Zoning Code in such a way as to carry out its intent and purpose, to determine the precise location of a zoning district, to classify a use which is not specifically mentioned, and to interpret other ordinance standards.
- C. Authorize specific variances or departures from the Zoning Code, provided all the basic conditions are satisfied and there are practical difficulties in the way of carrying out the strict letter of the Zoning Code.

The ZBA shall not engage in any matters that are not explicitly within its defined scope of authority as per the local ordinances and state law.

## VI. Amendments

- A. **Proposal:** Amendments to these bylaws may be proposed by any member of the ZBA or City Council.
- B. **Notice:** Proposed amendments must be submitted in writing to each member of the ZBA before the meeting at which they will be considered.
- C. **Approval:** Approval of amendments requires a two-thirds ( $\frac{2}{3}$ ) majority vote from appointed members at a regularly scheduled or special meeting where a quorum is present.

## VII. Annual Review of By-Laws

An annual review will be conducted to ensure by-laws remain relevant and effective. Necessary amendments will be proposed and processed as outlined.

## VIII. Conflict Resolution:

- A. Any conflicts arising within the board regarding procedural matters or substantial issues will be addressed promptly and resolved based on a majority vote of the present members.
- B. Conflicts of interest will be disclosed, and the affected member will abstain from voting on the related matter.



- C. In cases of persistent conflicts, external mediation or legal advice may be sought to ensure impartial resolution.

## IX. Legal Compliance:

- A. The ZBA commits to adhering to all relevant local, state, and federal laws, ordinances, and regulations.
- B. All actions and decisions of the ZBA will comply with applicable legal and ethical standards, maintaining the integrity and legality of the board's operations.

## X. Definitions:

- A. Define specific terms and phrases as they are used in the document to avoid ambiguity and misinterpretation.
- B. For terms not defined herein, their usual and customary meanings shall apply unless the context otherwise requires.
  - a) **Appeal:** A request for a review of the interpretation of any provision of the zoning ordinance or a request for a variance.
  - b) **Bylaws:** The set of rules adopted by the ZBA for governing its meetings and operations.
  - c) **Chairman, Vice Chairman, and Secretary:** Officers of the ZBA responsible for presiding over meetings and performing duties as outlined in the bylaws.
  - d) **City Council:** The primary legislative body of the City of Harrison, holding the authority to appoint the ZBA and enact ordinances and resolutions for the governance of the city.
  - e) **Code of Conduct:** The standards and principles that ZBA members are expected to uphold while performing their duties.
  - f) **Pledge of Allegiance:** A formal expression of allegiance to the Flag of the United States, recited at the start of the meeting.
  - g) **Public Hearing:** An organized event where the ZBA provides an opportunity for public comments and discussions on specific topics, usually related to appeals or variances.



- h) **Quorum:** The minimum number of ZBA members required to be present for the legal transaction of business, typically a simple majority of the board's members.
- i) **Special Meeting:** A meeting that is not part of the regularly scheduled meetings of the ZBA but is convened to address specific issues, appeals, or other matters requiring the attention of the board.
- j) **Terms of Office:** The duration for which a member is appointed to serve on the ZBA.
- k) **Variance:** A relaxation or modification of the zoning ordinance granted by the ZBA, permitting construction or use in a manner that would otherwise be prohibited.
- l) **Zoning Board of Appeals (ZBA):** Defined as the board appointed to oversee and make decisions on appeals and variances regarding the zoning ordinance of the City of Harrison

## Appendix I. Zoning Board of Appeals – Guide to Variances

The Zoning Board of Appeals (ZBA) is endowed with the authority to grant variances, where strict enforcement of the Zoning Ordinance would result in unnecessary hardship. Variances should be considered only when the applicant's circumstance is unique and the variance is necessary to preserve and enjoy a substantial property right, keeping in accordance with the spirit of the ordinance and public safety.

The ZBA should approve a variance only when:

1. **Meets the Criteria for Granting Variances as Outlined in the Zoning Laws:** The request must comply with the specific conditions under which a variance can be considered, as per the zoning laws, recognizing that it seeks relief from the strict application of the zoning ordinance.
2. **Addresses Specific Property Hardship:** The request must solve a unique problem related to the property that cannot be solved without a variance, such as a natural obstacle or irregular shape of the plot.
3. **Preserves Public Safety and Welfare:** The variance should not compromise public safety, impair environmental factors, or hinder public welfare.
4. **Maintains Neighborhood Property Values:** Granting the variance should not adversely affect the property values in the vicinity or alter the essential character of the locality.
5. **Demonstrates Practical Difficulties or Unnecessary Hardship:** The applicant must illustrate that there are practical difficulties or unnecessary hardships that prevent the reasonable use of the property under strict adherence to the zoning ordinance.
6. **Ensures Minimal Alteration:** The variance should represent the minimum necessary alteration of the zoning ordinance to allow the reasonable use of the property.
7. **Avoids Sole Economic Concerns:** The difficulty or hardship should not be solely economic and should be based on the reasonable use of the particular parcel of land.

All of the above criteria must be met for a variance to be granted. If even one criterion is not satisfied, the ZBA should deny the variance request. The ZBA should meticulously scrutinize each criterion to ensure that the



variance is absolutely necessary, and not merely sought as a convenience or economic gain.

The ZBA should deny a variance when:

1. **Does Not Satisfy Basic Zoning Ordinance Conditions:** For instance, a request to build a commercial building in a residential area which is inconsistent with the zoning laws should be denied.
2. **Lacks Practical Difficulties or Hardships:** If there are no substantial practical difficulties or hardships presented by the strict application of the zoning ordinance, a request for variance should be denied.
3. **Compromises Public Safety or Welfare:** Any request that poses a threat to public safety, the environment, or general welfare, for example, establishing a hazardous facility in a residential area, should be rejected.
4. **Adversely Affects Property Values in the Vicinity:** If the variance would significantly depreciate the value of neighboring properties or alter the essential character of the locality, it should not be granted.
5. **Exhibits Recurrent Difficulties or Hardships:** When the claimed hardship or difficulty is common or general to properties in the same area, it indicates that a variance may not be the appropriate remedy.
6. **Does Not Preserve a Substantial Property Right:** If the variance sought does not preserve any substantial property right and is purely for personal enjoyment, it should be denied.

Variations are not meant to allow a property owner to circumvent the Zoning Ordinance simply because they disagree with it or find it inconvenient. They are intended to remedy difficulties arising from applying general rules to specific properties with unique characteristics. Variations should not be granted when the sole purpose is economic gain or when the conditions creating the hardship were self-imposed by the property owner.

It's crucial for the ZBA to meticulously assess each variance request, considering its unique circumstances and the broader impacts on the community. A variance should be granted only when it is in the public interest, addresses specific property hardships, preserves substantial property rights, and maintains the spirit and intent of the zoning ordinance. In every case, the ZBA should act to ensure the integrity and efficacy of the zoning laws while maintaining balanced and equitable decision-making.