

**CITY OF GAYLORD**  
**ZONING BOARD OF APPEALS**

**Bylaws**

**Adopted, effective immediately, \_\_\_\_\_**

- 1. PURPOSE.** These Bylaws are adopted to provide for the efficient and uniform administration of the City of Gaylord Zoning Board of Appeals.
- 2. MEMBERSHIP.** The Gaylord City Council shall serve as the Zoning Board of Appeals. The City Council while serving as the Zoning Board of Appeals shall perform its duties and exercise its powers as provided and in compliance with MCL 125.3601 through MCL 125.3607, as amended, and the City of Gaylord Zoning Ordinance to the end that the objectives of that Ordinance are observed, public safety, health, and general welfare secured, and substantial justice done.
- 3. OFFICERS AND COMMITTEES**
  - 3.1 Chairperson.** The Mayor is the Chairperson for the Zoning Board of Appeals and shall preside over all meetings.
  - 3.2 Vice Chairperson.** The Mayor Pro Tem is the Vice Chairperson for the Zoning Board of Appeals and shall perform the duties of Chairperson during the absence of the Chairperson.
  - 3.3 Secretary.** The City Clerk will serve as the Secretary for the Zoning Board of Appeals and shall assure that the minutes of all the Zoning Board of Appeals meetings are properly recorded and that notices for all meetings are published and recorded. The Secretary shall also perform such other duties as may be assigned by the Chairperson or the Zoning Board of Appeals.
  - 3.4 Vacancies.** Vacancies on the City Council shall be filled in accordance with the City of Gaylord Charter, and the Michigan Election Law, MCL 168.1 *et seq.*
- 4. NOTICE OF REQUEST**
  - 4.1 Filing of Appeals.** An appeal under this section shall be taken within fourteen (14) days after service of written notice of the decision or determination being appealed upon the aggrieved party. Such appeal shall be taken by the filing a written appeal with the Zoning Administrator specifying the grounds for the appeal. The Zoning Administrator shall immediately transmit to the Zoning Board of Appeals all of the papers constituting the record upon which the action appealed from was taken.

**4.2 Notification.** Within 10 days from the date of the receipt of the request for relief, including a variance, ordinance interpretation, notice of appeal or other request authorized by the City Zoning Ordinance, the Zoning Administrator shall contact the Secretary of the Zoning Board of Appeals and establish a date and time on the earliest available agenda for the board to hold a hearing and a meeting to consider and act on the case. The notice sent to members of the Appeals Board shall include copies of the notice of appeals or request for a variance form; the entire content of the zoning administrators file, and/or other files on the case; other relevant correspondence, permits by other applicable enforcement agencies; and anything else which is relevant. In addition to the above notice requirements, notice of such meeting shall be delivered in person or by first class mail to the landowner, adjacent landowners, and occupants within 300 feet of the appellant's property, and a notice sent by first class mail to all persons and agents seeking the appeal or variance.

**4.3 Deadline for Action.** The Appeals 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 45 days after receipt of the case, unless a longer period of time is mutually agreed upon by the petitioner and the Zoning Board of Appeals.

**4.5 Notice of Decision.** The Secretary, or the Secretary's designate, shall deliver notices of the Appeals Board decision in person or by first class mail to the Zoning Administrator, to the City Attorney, all petitioners and their agents, and to anyone else who has requested a copy in writing.

## **5. MEETINGS**

**5.1 Regular Schedule.** Meetings will be regularly scheduled for the second and fourth Mondays of each month, concurrent with City Council meetings.

**5.2 Place of Meeting.** Meetings of the Zoning Board of Appeals shall be held at City Council Chambers at Gaylord City Hall. If for some reason the location needs to be changed, a notice stating the location will be prominently posted at the City Hall so that it is visible outside and shall be published in a newspaper of general circulation in the city, if such publication can be accomplished prior to the meeting. Any such notice may be combined with a notice regarding the meeting place of the Gaylord City Council.

**5.3 Time of Meetings.** Meetings of the Zoning Board of Appeals shall begin at 7:00pm, unless the Board of Appeals, by a vote of the majority of its members, specifies a different start time. Matters on the agenda which have not been considered may be heard at an adjourned meeting/hearing, provided a motion to

adjourn specifies the time, date, and place of the adjourned meeting or hearing, or specifies that it shall be placed on the agenda of the next regular meeting, or on the agenda of a special meeting, if one is called.

**5.4 Change in Schedule.** The Zoning Board of Appeals shall not hold a meeting during the Gaylord City Council meeting when there is no business on the agenda for the Zoning Board of Appeals to conduct. If a quorum is not present at the regular meeting, the meeting shall be rescheduled, and a notice of the rescheduled regular meeting shall be posted as required in Section 5.3.

## **6. PUBLIC NOTICE OF MEETINGS**

**6.1 Public Notice of Meetings.** The Secretary or the Secretary's designee shall be responsible for providing the proper notice of all meetings of the Zoning Board of Appeals. Notices shall comply with the Open Meetings Act, as amended, the Michigan Zoning Enabling Act, as amended, and the City of Gaylord Zoning Ordinance, as amended.

**6.2 Schedule Change.** The Zoning Board of Appeals shall hold its meetings during the regular meetings of the Gaylord City Council. Whenever the Gaylord City Council changes its schedule of regular meetings, the Secretary or the Secretary's designee shall, within three (3) days after the regular meeting at which the change was made, post at the City Hall so that it is visible from outside a public notice stating the dates, times, and places of the new schedule of regular meetings.

## **7. QUORUM AND VOTING**

**7.1 Quorum.** A majority of the members of the Zoning Board of Appeals shall constitute a quorum for the transaction of business at all meetings of the Zoning Board of Appeals.

**7.2 Voting.** An affirmative vote of a majority of the entire Zoning Board of Appeals shall be necessary to approve the city master plan and any amendment to the master plan. Unless otherwise provided in these bylaws or unless the City of Gaylord Zoning Ordinance requires otherwise, an affirmative vote of a majority of the Zoning Board of Appeals present shall be necessary to decide in favor of the applicant on any other matter before the Zoning Board of Appeals and to make all other decisions.

**7.3 Conflict of Interests.** A member of the Zoning Board of Appeals shall declare a conflict of interest in connection with a matter pending before the Zoning Board of Appeals and shall disqualify themselves from deliberating and voting on the matter.

**7.4 Ex Parte Contact.** Members should avoid *ex parte* contact with parties with pending applications or appeals before the Zoning Board of Appeals..

## **8. CONDUCT OF MEETINGS**

**8.1 Public Hearing Procedures** The procedure for a public hearing of the Zoning Board of Appeals shall be as follows, unless modified at the discretion of the Chairperson:

- a) The Chairperson shall open the public hearing by announcing the matter to be heard. The Chairperson or the City Attorney will then summarize the legal standards or other regulations on which the Zoning Board of Appeals decision must be based.
- b) The person seeking relief, or the person's agent, shall then be given an opportunity to speak about the request.
- c) The Zoning Administrator reviews any expert report from the City Engineers or the City Attorney, and gives the board members an opportunity to question the person or the person's agent regarding the request.
- d) Members of the public may make comment on the request during the public comment period, or if called upon at the discretion of the Chairperson.

The Zoning Board of Appeals shall then deliberate on the request once arrived at on its agenda, and render a decision.

**8.2 Members of the Public.** Members of the public wishing to address the Zoning Board of Appeals during the meeting or during a public hearing shall first be recognized by the Chairperson, and each person who speaks shall state their name and address, and speak to the Chairperson.

**8.3 Time Limit for Public Comment.** During any public comment period, including public hearings and during the public comment portion of the agenda, each member of the public that addresses the Zoning Board of Appeals shall be limited to three (3) minutes, unless extended by a majority vote of the Zoning Board of Appeals members present. Members of the general public expressing a desire to address the Zoning Board of Appeals may transfer their allotted time to another individual, who may act as a spokesperson for the group, subject to limitation by the Chairperson. There shall be no time limit imposed on any applicant or the applicant's agent, since the applicant has the burden of proof on the matter before the Zoning Board of Appeals.

**8.4 Written Statements Submitted by the Public.** Written correspondence received by the Zoning Administrator shall be presented to the Zoning Board of

Appeals during an agenda item reserved for that purpose. At that time, all written correspondence will be summarized and read aloud to the members of the Zoning Board of Appeals.

**8.5 Disorderly Conduct at Meetings.** Individuals addressing the Zoning Board of Appeals, including public hearings and during the comment portion of the agenda, must remain courteous, civil, and refrain from personal attacks against members of the Zoning Board of Appeals or city staff. The Chairperson may call out of order any person who is being disorderly or otherwise disrupting the meeting, which may include verbal or implied threats, failing to germane, speaking longer than the allotted time, yelling, shouting, or speaking vulgarities. In that case, the person must be seated until the Chairperson determines whether the person has returned to order. If a person remains out of order, he or she shall not be permitted to continue to speak at the same meeting or public hearing, except by a majority vote of the Zoning Board of Appeals members present. If the person continues to be disorderly, the Chairperson shall consider the person to be in breach of the peace and may request the assistance of a law enforcement officer to remove the person from the meeting. The Zoning Board of Appeals shall have the right to adjourn the meeting if it is interrupted due to disorderly conduct of any person. No person shall be removed from a public meeting, except for an actual breach of peace at the meeting.

## **9. RECORDING OF MEETINGS.**

**9.1 Recording Responsibility.** The Secretary or their designee shall be responsible for maintaining the official records and minutes of each meeting of the Zoning Board of Appeals. The minutes shall include all of the actions of the Zoning Board of Appeals with respect to motions. The minutes shall include the names of the Zoning Board of Appeals members who present motions and Zoning Board of Appeals members who second motions as well as the vote of the Zoning Board of Appeals on such motions. If a roll call vote is taken, the record shall show the “yes” and “no” votes. However, if all members vote “yes” or “no”, the minutes may then reflect motion carried or defeated by unanimous vote.

**9.2 Voting.** Whenever a question is put by the Chairperson, every Zoning Board of Appeals member present shall vote on the question. If a member has a conflict of interest, such conflict of interest shall be fully stated on the record. If a question exists whether the circumstances actually present a conflict of interest, the Zoning Board of Appeals may, by a majority vote of the members present, adjourn the case to specific time, date, and place in order to obtain a written opinion from

the city attorney. Once the conflict of interest is declared and confirmed, the Zoning Board of Appeals member with the conflict of interest shall abstain from participating and voting in the case.

**9.3 Requests for Remarks to be Included.** Any Zoning Board of Appeals member may request to have their comments printed as part of the minutes. If there are no objections by any Zoning Board of Appeals member, the comments may be included. If there is an objection to including the requested comments in the minutes, the Zoning Board of Appeals shall decide the matter by a majority vote of the Zoning Board of Appeals members present.

**9.4 Public Access to Meeting Records.** The Secretary or their designee shall make available to the public the minutes of official meetings in accordance with the Freedom of Information Act. Minutes Prepared by the Secretary or their designee but not approved by the Zoning Board of Appeals shall be available for public inspection not more the eight (8) business days following the meeting. Minutes approved by the Zoning Board of Appeals shall be available within five (5) business days after the meeting at which they were approved.

**10. AMENDMENTS.** These Bylaws may be added to, amended, or repealed in whole or in part. Proposed changes to these bylaws must be submitted in writing to the members of the Zoning Board of Appeals at least one (1) month in advance of the meeting at which the proposed changes will be considered. A majority vote of the entirety of the Zoning Board of Appeals members shall be required to amend these bylaws.