

Bylaws of the Benton Harbor Construction Board of Appeals

Article I - Name

The name of the Board shall be the *Benton Harbor Construction Board of Appeals*, the “Board”.

Article II - Purpose and Duties

The purpose and duties of the Board shall be those prescribed for the Construction Board of Appeals in Section 111 of the International Property Maintenance Code (the Code).

Article III - Members, Officers and Duties

Section 1 - Members. The Board membership and terms of service shall be consistent with Section 111 of the Code. The Board shall consist of five (5) members

Section 2 - Officers. The Board shall elect a Chair and a Vice Chair to serve as officers of the Board.

Section 3 - Duties. The Chair shall preside over all meetings of the Board and carry out other such duties as defined in these Bylaws. The Vice Chair shall assume the responsibilities and perform the duties of the Chair if the Chair is absent or otherwise unavailable to perform his or her designated duties.

Section 4 - Secretary. The City Clerk, or such other employee of the City as designated by the City Manager, shall serve as Secretary of the Board and provide required administrative, technical and clerical support for the Board.

Section 5 - Attendance at Meetings. A Board member’s nonattendance at three (3) consecutive Board meetings shall automatically create a vacancy without further action. The City Council may grant a member a leave of absence not to exceed 120 days.

Article IV - Election of Officers

Section 1 - Annual Election. The election of officers shall be held at the first meeting in January of each year or the first meeting of the year. Nominations shall be made from the floor at the meeting, and voting may be by voice vote or by written ballot. The candidate receiving a majority vote of the members of the Board shall be declared elected.

Section 2 - Term of Office. The officers shall serve terms of two years and shall be eligible for re-election.

Section 3 - Vacancies. If an officer position becomes vacant for any reason during the course of the year, the vacancy shall be filled by appointment by the City Manager by majority vote of the members of the Board.

Article V - Meeting Schedule and Notification

Section 1 - Regular Meetings. The Board shall schedule one (1) regular meeting on the second Wednesday of January at a time and place determined by the Board and accessible to the public. If the regular meeting date falls on a holiday or at a time when a majority of members would be unable to attend, the Board may reschedule the regular meeting to an appropriate date, time and location.

Section 2 - Meeting Notification. Meetings for hearing of an appeal shall be on the second Wednesday of the first month, which meets the notice requirements of these bylaws, after receipt of an application. Notification of the date, time and location of any special meeting or any change in the scheduling or location of a regular meeting shall be posted at City Hall at least eighteen (18) hours in advance of the meeting. Notification of all meetings of the Board shall comply with the Michigan Open Meetings Act, 1976 PA 267, as amended. All notifications to members of the Board shall be via email.

Section 3 - Special Meetings. Special meetings of the Board may be called by action of the Board. Special meetings may also be called by the Building Official if so directed by the Chair, by any other member of the Board in writing, or at the request of the City Manager. Notice of a special meeting shall be provided to each member of the Board at least twenty-four (24) hours in advance of the meeting and shall include the purpose of the meeting. The notice shall also be posted at City Hall and at the intended place of the meeting at least eighteen (18) hours in advance of the meeting.

Section 4 - Meeting Cancellation. The Building Official, with the approval of the Chair, may cancel a regular or special meeting of the Board if there is no business to conduct or if it is known that a quorum will not be present at the meeting. Notice of such cancellation shall be provided to each member of the Board and shall be posted at City Hall and at the intended place of the meeting.

Article VI - Meeting Procedures

Section 1 - Quorum. A quorum for the purposes of conducting any business at a Board meeting shall consist of a simple majority of member seats.

Section 2 - Voting. The concurring vote of a simple majority of members of the Board who are present shall be necessary to reverse or modify any administrative order, requirement, decision or determination made by the Building Official or the Zoning Administrator in enforcing the Michigan Building Code, the Michigan Residential Code, or the International Property Maintenance Code. When a quorum is present, all other actions may be taken by a vote of a majority of the members present, unless otherwise

required by State or local statute. Each member of the Board shall vote on each question before the Board, unless excused from participating by vote of the Board when a conflict of interest occurs.

Section 3 - Conflict of Interest. A member who has a direct conflict of interest of more than a de minimis nature as defined by MCL 15.322 and 15.323 or the City Code of Ethics, Article 2 of Chapter 3 of the City Code, in any matter before the Board, shall disclose that interest prior to the Board taking any action with respect to the matter. This disclosure shall become part of the record of the Board's official proceedings. Any member making such disclosure shall, with the approval of the Board, refrain from participating in the Board's decision-making process relative to such matter, including all discussions, motions made and votes taken, unless required by law.

Section 4 - Parliamentary Procedure. The meetings shall be conducted in accordance with parliamentary procedures as defined in *Robert's Rules of Order*.

Section 5- Open and Closed Meetings. All meetings of the Board, including regular meetings, special meetings and committee meetings, shall be open to the public in accordance with the Michigan Open Meetings Act, 1976 PA 267, as amended; except, upon approval of at least three (3) members, the Board may meet in closed session for the purposes listed in the Act.

Section 6 - Public Participation. All persons shall be provided the opportunity to address the Board on any issue of interest at each meeting. Such opportunity may be limited to prescribed times on the agenda and, to ensure that equal opportunity is provided to all persons present to address the Board, the Chair may limit the time each person is allowed to speak before the Board on any issue and may limit members of the public to prescribed times on the agenda.

Section 7 - Agendas. An agenda for each meeting shall be prepared by the Secretary using a format approved by the Board. For regular meetings the agenda shall be emailed to the Board and the appellant and posted at City Hall at least five (5) days before the meeting. For special meetings the agenda shall be provided to the Board and posted at City Hall at least eighteen (18) hours before the meeting. The Board shall approve the agenda at each meeting and may act to add or delete items from the agenda or to rearrange the order of items on the agenda.

Section 8 - Agenda Materials. Non-exempt written materials shall include all public records and written materials which are subject to public disclosure under the Michigan Freedom of Information Act, 1976 PA 442, as amended. Copies of all non-exempt written materials available to the Secretary or Building Official at the time the agenda is mailed shall be transmitted with the agenda to Board members and the appellant. Copies of all non-exempt written materials available to the Secretary shall also be available for inspection at City Hall in advance of the meeting and shall be available at the meeting.

Section 9 - Content of Meeting Minutes. The Secretary shall record minutes of the proceedings of each regular and special Board meeting showing the date, time and place of

the meeting, the members present and absent, the specific actions taken, any decisions made, and all votes cast. The minutes shall identify all persons who addressed the Board and the general concerns expressed. The minutes shall also reflect the general questions, discussion and conclusions expressed by Board during its deliberations.

Section 10 - Publication of Minutes. A draft copy of the proposed meeting minutes shall be available for public inspection not more than eight (8) business days after the meeting and shall be transmitted to the Board with the agenda for its next meeting or within fifteen (15) business days of the decision. The Board shall approve the minutes with necessary corrections at its next meeting, and a published copy of the corrected and approved minutes shall be available for public inspection not more than five (5) days after their approval.

Section 11 - Public Records. The approved meeting minutes shall serve as the official public record of the Board's actions. The Secretary shall maintain the approved meeting minutes and other public records of the Board as required. The minutes and public records shall be available for public inspection in accordance with the requirements of the Michigan Freedom of Information Act, 1976 PA 442, as amended.

Article VII - Appeals Under the Zoning Code

Section 1 - Submission. Appeals shall be submitted to the Building Official on a form approved by the Board. The appeal must be accompanied by the required filing fee(s). Written documents, plans, photographs or other materials may also be submitted in support of the appeal.

Section 2 - Filing Deadlines. In order to schedule the required public hearing, an appeal must be submitted to the Secretary at least thirty (30) days in advance of the Board meeting at which the appeal will be heard. An appeal seeking to reverse or to modify any order, requirement, decision or determination of the Building Official or the Zoning Administrator shall be filed within twenty (20) days of such order, requirement, decision or determination.

Section 3 - Notice of Appeal. Upon receipt of an appeal, the Building Official shall prepare a notice of appeal which identifies the appellant, the property in question, the subject of the appeal and the action that could result if the appeal is granted. The notice of appeal shall state the date, time and place at which the Board will hold a public hearing and consider action on the appeal. The Secretary or Building Official may also prepare background information, technical analysis or other information regarding the appeal to assist the Board in its deliberations.

Section 4 - Public Notification. At least fifteen (15) days prior to the public hearing on the appeal, the City Clerk shall publish the notice of appeal hearing in a newspaper of general circulation.

Section 5 - Public Hearing. All appeals taken to the Board shall be considered by the Board at a public hearing. At the hearing the Secretary will read the appeal and all written communications received on the appeal and list the other information available on the appeal for the record. A party may appear in person or by agent or attorney. The appellant will first be provided the opportunity to explain and defend the appeal. All interested persons will be permitted to address the Board on the appeal. The appellant will be provided the opportunity to respond to questions or concerns raised by others.

Section 6 - Board Action. Following the public comment, the Board shall close the public hearing and then deliberate and take action on the appeal. The Board may act at the same meeting or it may defer action to a subsequent meeting. The Board shall act on the appeal within a reasonable time not to exceed thirty (30) days after the original public hearing, unless a further time is agreed upon with the parties concerned.

Section 7 - Notification of Action. Within five (5) business days of the Board's action, the Secretary shall send notice to the appellant via first class mail. The notice shall specify the action taken by the Board, including any conditions that may have been imposed, and the expiration date of any approval. Copies of the notice shall be sent to other City departments as appropriate.

Section 8 - Continuation of an Appeal. Since two (2) affirmative votes are required by ordinance to grant an appeal, the absence of one or more members of the Board could affect the outcome of an appeal. Therefore, the Board shall grant a continuation of an appeal to a subsequent meeting if all the following conditions are met:

a) fewer than three (3) members of the Board are present and voting on the appeal;

and

c) the appellant affirmatively states on the record the desire to continue the appeal prior to the deliberation.

The appeal shall be continued at the next regular meeting of the Board unless an alternative time is agreed to by the Board and the appellant. In addition to the notification requirements in Section 4 above, all persons who communicated to the Board on the appeal at the original public hearing shall receive notice of the date, time and place at which the appeal will be continued. All written materials and communications received on the appeal at the original public hearing and the minutes of the original public hearing shall remain as part of the record on the appeal and be provided to Board members, the appellant and the persons who participated in the original public hearing at least ten (10) days in advance of the meeting at which the appeal is continued. When the appeal is continued, the appellant and other interested persons shall be provided the opportunity to correct or supplement the record previously provided to the Board.

Section 9 - Reconsideration of a Board Action. A denied appeal may only be appealed to the appropriate Court.

Article VIII - Amendments of Bylaws

These Bylaws may be amended at any regular meeting of the Board on an affirmative vote of at least two (2) members of the Board, provided that the proposed amendment has first been submitted to the Board in writing at the previous regular meeting.

Article VIII - Fee Structure

Every application shall be accompanied by the following:

1. A non-refundable application fee of Three Hundred Fifty **(\$350.00)** Dollars

Approved by the Benton Harbor Construction Board of Appeals, Mr. Thomas Baldwin Chairperson, on April 15, 2015.