

**CITY OF KENTWOOD
ZONING BOARD OF APPEALS BYLAWS**

I. Officers

- A. The Zoning Board of Appeals shall consist of seven (7) members and up to two alternate members. All members shall be chosen by the City Commission from electors residing in the City of Kentwood and one member may also be a member of the Planning Commission.
- B. Members shall serve a term of three (3) years.
- C. The presence of a majority of the members shall constitute a quorum.
- D. At the January meeting of the Kentwood Zoning Board of Appeals (“Board”), the Board shall elect members as chairperson, vice-chairperson and secretary, to serve a term of one year. All officers shall be eligible for re-election for consecutive terms for the same office.
- E. The chairperson shall preside at all meetings, appoint committees (with the approval of the Board), and perform such other duties as ordered by the Board. In the absence of a chairperson, the vice-chairperson shall act as chairperson. In the event the office of chairperson becomes vacant, the vice chairperson shall succeed to this office for the unexpired term and the Board shall elect a successor to the office of vice chairperson for the unexpired term. In the absence of both, the secretary shall act as chairperson.
- F. The secretary shall execute documents in the name of the Board, perform the duties listed below and perform such other duties as the Board may determine.
 - 1. **Minutes.** The secretary shall be responsible for a permanent record of the minutes of each meeting and shall have them recorded in suitable permanent records retained by the City Clerk. The minutes shall contain a synopsis of the meeting, including a complete restatement of all motions and record of votes, conditions or recommendations made on any action and record of attendance.
 - 2. **Correspondence.** The secretary shall be responsible for issuing formal written correspondence with other groups or persons, as directed by the Board. All communications, petitions, reports or other written materials received by the secretary shall be brought to the attention of the Board.
 - 3. **Attendance.** The secretary shall be responsible for maintaining an attendance record for each Board member and report those records annually to the Board for inclusion in an annual report to the City Commission.
 - 4. **Notices.** The secretary shall issue such notices as may be required by the Board or state law.

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- G. Staff support shall be provided to compile required records, maintain files and indices, and perform clerical work for the Board. In addition, staff shall provide factual information and recommendations to the Board pertaining to the cases considered by the Board. The factual information shall include a description of the request, a listing of any recent actions taken by the Board for similar cases or under similar circumstances, information on the physical characteristics of the site, special circumstances that would be applicable to the site, and such other information as is pertinent to the matter before the Board. The recommendations shall include a complete assessment of compliance with review standards as well as options available to the applicant which would reduce or remove the need for a variance. Recommendations shall not be binding on the Board.

II. REQUIRED HEARINGS

The Board shall hear and decide appeals from and review any order, requirement, decision, or determination made by an administrative official or body charged with the enforcement of any ordinance pursuant to Public Act 110 of 2006, as amended.

III. MEETINGS

- A. The Board shall meet on the third Monday of each month at 7:00 P.M. in the City Commission Chambers, City Hall, 4900 Breton Avenue.
- B. All meetings are subject to Public Act 267 of 1976, as amended, the Michigan Open Meetings Act. The dates and times of such meetings shall be posted at the City Hall according to the Act. All meetings, minutes, records, documents, correspondence and other materials of the Board shall be open to public inspection in accordance with Public Act 442 of 1976, as amended, the Freedom of Information Act, except as may otherwise be provided by law.
- C. The concurring vote of at least four (4) members of the Board shall be necessary to pass or reverse an order, requirement, decision, or determination of an administrative official or body, or to decide in favor of an applicant or any matter they are required to pass upon under this Ordinance, or to effect a non-use variation in the Zoning Ordinance. Except in the case of a recognized conflict of interest, all Board members, including the chairperson, shall vote on all matters, but the chairperson shall vote last.
- D. Applicants to the Board may request a special meeting, for which all costs shall be paid by the applicant; if there is more than one applicant, the costs shall be shared equally between all applicants. The business the Board may perform shall be conducted at a public meeting held in compliance with the Open Meetings Act.
- E. City staff, with the prior approval of the chairperson, may cancel or adjourn a meeting of the Board beforehand due to inclement weather, the anticipated lack of a quorum, the lack of any applications or other matters on the agenda, an emergency, or for

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similar reasons. Notice of a cancelled meeting shall be posted at the City Hall. An adjourned meeting will be noticed in the manner and to the extent required by law.

- F. The Board may impose conditions upon an affirmative decision.
- G. The decisions of the Board shall be final. However, an applicant may appeal a decision made by the Board to the circuit court to the extent and in the manner permitted by law.
- H. Each Board member shall have one (1) vote. A voice vote shall be taken unless a roll call is requested by a Board member.

IV. MEETING PROCEDURE

- A. An applicant may be heard personally, or by an attorney or other authorized representative and may present evidence as he/she sees fit. Any person in opposition thereto may appear personally, or by representation, and present such evidence as he/she may wish. Those appearing before the Board may be subject to questioning in the reasonable discretion of the Board.
- B. No action shall be taken in cases where the applicant or his/her duly authorized agent or representative is not present at the meeting of the Board. The request shall be tabled until the next meeting and the applicant notified. No favorable action will be taken if the applicant or his/her duly authorized agent is not present for two consecutive meetings.
- C. In the event a quorum is not present, the Board shall at its discretion, either postpone the hearing until the next scheduled meeting, or specify a special hearing date and time, such that a quorum would be available.
- D. Action of the Board in each case shall be based on the application, objections thereto, other papers filed, evidence produced, oral arguments and public comments at the time of the hearing, and such other information as is provided to the Board.
- E. The dais on which the Board is seated within the meeting room may only be occupied by Board members. However, children of a sitting Board member may also accompany their parent on the dais provided the child is less than one year of age and not creating a distraction to the proceedings.

V. ABSENCES, REMOVALS, RESIGNATIONS, VACANCIES, AND ALTERNATES

- A. To be excused, Board members shall notify the Board chairperson or other Board member(s) when they become aware that they will be absent from a meeting. Failure

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to make this notification prior to a meeting shall result in an unexcused absence.

- B. A member may resign from the Board by sending a letter of resignation to City Clerk and the Board chairperson.
- C. Vacancies in the Board shall be filled by the City Commission in the manner provided by law. Successors shall serve out the unexpired term of the member being replaced, with the exception of a planning commission representative whose term shall run consecutively with the term as planning commissioner.

VI. CONFLICT OF INTEREST

- A. Board members shall declare a conflict of interest and abstain from participating in a hearing or deliberations on a request when:
 - 1. The applicant is the Board member or his/her spouse, the child, grandchild, great-grandchild, parent, grandparent, great-grandparent, brother, sister, nephew, niece, aunt, or uncle of the Board member or the member's spouse;
 - 2. The Board member or the member's spouse, partner, or any relative residing in the member's household has a pecuniary interest in the outcome of the matter;
 - 3. While being a member of the Board the member has made statements or taken any action outside the formal decision-making process that would suggest that he or she has prejudged the matter before the Board or would in any way preclude him or her from affording the applicant and the public a fair hearing;
 - 4. If the Board member has expressed an opinion concerning a matter before the Board prior to becoming a member of the Board and cannot in good faith set aside that prior opinion and decide the matter based on the information provided at the public hearing and the zoning ordinance requirements, or
 - 5. The Board member concludes in good faith that because of prior business or personal relationships with the applicant or with other participants in the public hearing process, or for other reasons, he or she cannot afford the applicant and the public a fair hearing.
- B. A Board member declaring a conflict of interest should state the nature of the conflict to the Board and defer to the Board as to whether he or she is determined to have a conflict under these Bylaws. He or she should abstain from any discussion or votes relative to the matter on which he or she is determined to have a conflict. If the Board is asked to decide whether a conflict of interest exists it shall immediately cease discussion on the main issue, discuss the possible conflict of interest, and vote as to whether or not it exists. The member declaring a conflict may absent him/herself from the room in which the discussion takes place, unless doing so would violate his or her constitutionally protected rights to participate. He or she should not make any presentations to the Board as a representative of the proposal.

VII. FINAL DISPOSITION OF CASES

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- A. Final disposition of any application or appeal shall be in the form of a resolution, either reversing, modifying, or affirming the order, decision, or determination appealed from. Final disposition of all other matters referred to the Board, or upon which the Board is required to pass under the Kentwood City Code, Zoning Ordinance or Public Act 110 of 2006, shall be in the form of a resolution either granting or denying, in part or in whole, the action requested.
- B. All resolutions shall be accompanied by findings of fact which state pertinent facts and criteria outlined in the relevant sections of the Kentwood Zoning Ordinance on which the resolution was based.
- C. All approvals shall remain valid so long as the conditions upon which the approval was based are complied with and maintained.
- D. If an application is denied, no like application shall be considered for a period of one year following the denial unless the applicant can prove that the situation has changed materially in a manner to warrant a rehearing as determined by the Board. The applicant should provide an explanation of how the change has affected the criteria on which the application was denied. The applicant shall be required to resubmit all application materials and fees.
- E. Variances must be exercised within one year of approval, unless more time is specifically granted by the Board. A one-time extension of up to one (1) year may be granted by the Board, applied for in writing prior to the date of expiration of approval of the variance.

VI. RECORDS

All records shall be kept in required forms, and after final deposition shall be filed such that they shall be made accessible to the public.

VII. AMENDMENTS

The Board may recommend to amend these bylaws by a concurring vote pursuant to Section III, Subsection C during any regular meeting, provided that all members have received an advanced copy of the proposed amendments at least three (3) days prior to the meeting at which such amendments are to be considered.

The foregoing amended Bylaws for the Kentwood Zoning Board of Appeals were adopted at a regular meeting of the Kentwood Zoning Board of Appeals held on September 17, 2018, the motion being:

Motion by Houtman, supported by Quinn, to amend the by-laws.

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Ayes: Houtman, Quinn, Royston, VanNoord, McCloud, Lipner, Derusha

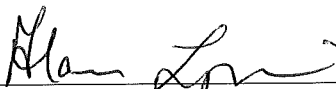
Nays: _____

Absent/Abstain: _____

Motion carried 7 to 0.

CERTIFICATION

I hereby certify the foregoing to be a true copy of the amended Bylaws of the City of Kentwood Zoning Board of Appeals adopted by the Board of Appeals on the 17th day of September, 2018 at the City Hall for the City of Kentwood.



Alan Lipner, Secretary
Kentwood Zoning Board of Appeals

By-Laws adopted October 1990
Amended February 20, 1995
Amended February 18, 2002
Amended September 17, 2018