

**GENOA CHARTER TOWNSHIP
ZONING BOARD OF APPEALS RULES OF PROCEDURE**

Effective January 14, 2014

Amended July 21, 2015

ARTICLE 1: AUTHORITY

These rules of procedure are adopted by the Genoa Charter Township Zoning Board of Appeals (hereinafter referred to as the “ZBA”), to facilitate the duties of the ZBA as outlined in Public Act 110 of 2006, as amended, being the Michigan Zoning Enabling Act, (M.C.L. 125.3101 et. seq.) and the Genoa Charter Township Zoning Ordinance.

ARTICLE 2: MEMBERSHIP

Section 1. The ZBA shall consist of five (5) members as follows:

- A. Planning Commission Member.** The first member shall be a member of the Township Planning Commission.
- B. Other Members.** The remaining members shall be selected and appointed by the Township Board from among electors residing in the unincorporated area of the Township.
- C. Township Trustee.** Only one member may be from the Township Board and their membership term shall be limited to the time they are a member of the Township Board.
- D. Alternates.** The Township Board may appoint not more than two (2) alternate members for the same term as regular members to the ZBA.
- E. Terms.** Terms shall be for three (3) years, except for members serving because of their membership on the Planning Commission or Township Board, whose terms shall be limited to the time they are members of those respective boards. Any vacancies shall be filled within one (1) month after the vacancy occurs. Vacancies for unexpired terms shall be filled by the Township Board for the remainder of the unexpired term.
- F. Removal.** Members of the ZBA shall be removable by the Township Board for misfeasance, malfeasance or nonfeasance, upon filing of written charges and after a public hearing before the Township Board.
- G. Resignation.** A member may resign from the ZBA by sending a letter of resignation to the Township Supervisor or the Township Board.

Section 2. Members of the ZBA shall be subject to the following membership requirements.

- A. Attendance.** If any member of the ZBA is absent from three (3) consecutive meetings then that member shall be considered delinquent. Delinquency can be grounds for the

Township Board to remove a member of the ZBA for nonperformance of duty or misconduct after holding a public hearing on the matter.

- B. Training.** Members of the ZBA should participate in training opportunities when they are available. Participating in training is not mandatory for membership, but it is strongly encouraged.
- C. Staff Support.** Township staff will have the ability to participate in discussion with the ZBA and nothing else. Township staff cannot vote, introduce motions, initiate any other parliamentary action, be counted for a quorum or be expected to comply with attendance requirements in these rules of procedure. Township staff includes employees, agents and consultants of Genoa Charter Township. Other individuals may be allowed to participate in discussion at the discretion of the chairperson.

ARTICLE 3: OFFICERS

Section 1. The Officers of the ZBA shall be a chairperson and a vice-chairperson. The Township Board representative shall not serve as an officer.

- A. Duties of the Chairperson.** The chairperson shall preside at all meetings and hearings of the ZBA, shall have the duties normally conferred by parliamentary usage on such officers and shall serve as the liaison between the ZBA and Township Staff.
- B. Duties of the Vice-Chairperson.** The vice-chairperson shall preside and exercise all of the duties of the chairperson in his/her absence. Should neither the chairperson nor the vice-chairperson be present at a meeting, a temporary chairperson shall be elected by a majority vote of the members present.

Section 2. The duties of the Planning Commission representative and Township Board representative shall be as follows:

- A. Duties of the Township Board Representative.** The Township Board representative shall report the actions of the ZBA to the Township Board and shall update the ZBA on the actions of the Township Board.
- B. Duties of the Planning Commission Representative.** The Planning Commission representative shall report the actions of the ZBA to the Planning Commission and shall update the ZBA on the actions of the Planning Commission.

Section 3. The election of officers shall be carried out in the following manner.

- A. Elections.** At the first meeting of the calendar year, the ZBA shall select from its membership a chairperson and a vice-chairperson who shall serve for a twelve-month period and who shall be eligible for re-election. A candidate receiving a majority vote of the membership present shall be declared elected. Newly elected officers will assume their office at the next meeting.

B. Vacancies. Vacancies in office shall be filled by regular election procedure and shall only serve the remainder of the term.

ARTICLE 4: ADMINISTRATIVE DUTIES

Section 1. Duties of Township Staff. Township Staff is responsible for the execution of documents in the name of the ZBA and shall perform the duties hereinafter listed below, and other such duties as the ZBA may determine.

- A. Minutes.** ZBA minutes shall be prepared by Township Staff. The minutes shall contain a brief synopsis of the meeting, complete statement of the conditions or recommendations made on any action; and recording of attendance.
- B. Correspondence.** Township Staff shall be responsible for the issuance of formal written correspondence with other groups or persons, as directed by the ZBA.
- C. Attendance.** Township Staff shall be responsible for maintaining an attendance record for each member of the ZBA.
- D. Notices/Agenda.** Township Staff shall issue such notices and prepare the agendas for all meetings.

ARTICLE 5: MEETINGS

Section 1. Regular Meetings. Regular meetings of the ZBA shall be held the third Tuesday of every month. The dates and times shall be posted at the Township Hall in accordance with the Open Meetings Act. Any changes in the date or time of the regular meetings shall be posted in the same manner as originally established. When a regular meeting falls on or near a legal holiday, suitable alternate dates in the same month shall be selected in accordance with the Open Meetings Act.

Section 2. Meeting Notices. All meetings shall be posted at the Township Hall according to the Open Meetings Act. The notice shall include the date, time and place of the meeting.

Section 3. Special Meetings. A special meeting may be called by three members of the ZBA upon written request to the chairperson or by the chairperson himself/herself. The business which the ZBA may perform shall be conducted at a public meeting 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 Township Staff shall send notice of a special meeting to ZBA members.

Section 4. Open Meetings. All meetings of the ZBA shall be opened to the public and held in a place available to the general public. A person shall be permitted to address the ZBA during call to the public. A person shall not be excluded from a meeting of the ZBA except for breach of the peace, committed at the meeting.

Section 5. Public Record. All meetings, minutes, records, documents, correspondence, and other materials of the ZBA shall be open to public inspection in accordance with the Freedom of Information Act, except as may otherwise be provided by law.

Section 6. Quorum. In order for the ZBA to conduct business or take any official action, a quorum consisting of the majority of the voting members of the ZBA shall be present. When a quorum is not present, no official action, except for closing of the meeting shall occur. The members of the ZBA may discuss matters of interest, but can take no action until the next regular or special meeting. All public hearings without a quorum shall be scheduled for the next regular or special meeting.

Section 7. Voting. Any decision made by the ZBA shall require a majority vote of the membership of the Zoning ZBA with the exception of a use variance, which will require a 2/3 vote of the membership. Voting shall ordinarily be voice vote; provided however that a roll call vote shall be required if requested by any ZBA member or directed by the chairperson. All ZBA members shall vote on every motion placed on the floor unless there is an impermissible conflict of interest, as established in ARTICLE 6 or is otherwise prohibited.

Any member of the ZBA shall avoid situations where they are sitting in judgement and voting on a decision, which they had a part in making. As used here, sitting in judgement and voting on a decision which they had a part in making at a minimum shall include, but not necessarily be limited to, the following:

- A. When the appeal is of an administrative or other decision by the Planning Commission, and the member of the ZBA sits both on the Planning Commission and ZBA.
- B. When the appeal is of an administrative or other decision by the Township Board, and the member of the ZBA sits both on the Township Board and ZBA.
- C. When the appeal is of an administrative or other decision by any committee of the Planning Commission, Township Board, other committee, and the member of the ZBA sits both on that committee and the ZBA.

Any member abstaining from a vote shall indicate their intention to abstain prior to any discussion on that item and shall not participate in the discussion of that item.

Section 8. Agenda. A written agenda for all regular meetings shall be prepared as follows:

The required agenda items for all regular meetings shall be:

- A. Call to order
- B. Pledge of Allegiance
- C. Introduction
- D. Approval of Agenda
- E. Call to the Public
- F. Administrative Business
- G. Adjournment

Section 9. Rules of Order. All meetings of the ZBA shall be conducted in accordance with generally accepted parliamentary procedure, as governed by “Robert’s Rules of Order”.

Section 10. Public Hearings. Hearings shall be scheduled and due notice given in accordance with the Genoa Township Zoning Ordinance and the Michigan Zoning Enabling Act. Public hearings conducted by the ZBA shall be run in an orderly and timely fashion. This shall be accomplished by the established hearing procedures as follows.

- A. Prior to holding a public hearing for any variance request, interpretation or appeal of administrative decision, the chairperson shall explain to the public the criteria in the zoning ordinance for how that decision is made.
- B. Announce Subject. The chairperson announces each agenda item and describes the subject to be considered.
- C. Open Public Hearing. The chairperson summarizes the hearing rules and then opens the hearing to the floor.
- D. Close Public Hearing. The chairperson should give ample opportunity for comment, including a “last call” for comments. The chairperson will then close the hearing.
- E. Deliberation. Any action of the ZBA must be supported by reasonable findings and conclusions, which will become part of the record through minutes, resolutions, staff reports, etc. All motions shall summarize these findings, or provide reasons for the suggested action. If a matter is tabled to a specific meeting date, it is not necessary to re-advertise the hearing so long as the public hearing was opened and closed and proper notice as specified in the zoning ordinance and Zoning Enabling Act was given.
- F. Action. After deliberation, the ZBA may take any of the following actions:
 - 1. In the event of a variance request, the ZBA may table the request, approve the request, deny the request or approve the request with conditions.
 - 2. In the event of an administrative appeal, the ZBA may decide in favor of the Zoning Administrator or may reverse any order, requirements, decision, or determination of the Zoning Administrator.
 - 3. In the event of a request to make an interpretation of the zoning ordinance, the ZBA may take action explaining the interpretation.

Section 11. Postponement of a Decision on a Variance Request. The ZBA may postpone a decision on a variance request until the next regular meeting provided that the date and time of the meeting is provided in the motion. The ZBA shall not authorize more than two (2) requests to postpone a variance decision. If additional time is needed by the applicant that would require a decision to be postponed more than twice, the ZBA may, after written request from the applicant, remove the item from the agenda and allow the applicant to reapply at a later date. If the applicant reapplies then the variance request shall be treated as a new request with a new case number, a new public hearing notice as required by the Michigan Zoning Enabling Act, (M.C.L. 125.3101 et. seq.), and a new application fee shall be paid.

ARTICLE 6: CONFLICT OF INTEREST

Section 1. Declaration of Conflict. No ZBA member shall participate in any matter where they have an impermissible conflict of interest. ZBA members shall declare a conflict of interest when any one (1) or more of the following occur:

- A.** A relative or other family member of a ZBA member has a business or financial interest in the property involved in the request, or has a business or financial interest in the applicant's company, agency, or association.
- B.** The ZBA member has a business or financial interest in the property involved in the request, or has a business or financial interest in the applicant's company, agency, or association.
- C.** The ZBA member or a relative or other family member of a ZBA member owns or has a financial interest in neighboring property. For purposes of this Section, a neighboring property shall include any property falling within the notification radius for the request, as required by the Zoning Ordinance and Michigan Zoning Enabling Act.
- D.** There is a reasonable appearance of a conflict of interest, as determined by the ZBA member declaring such conflict.

Section 2. Requirements. Prior to discussion on a request, the ZBA member shall do all of the following to declare a conflict:

- A.** Announce a conflict of interest and state its general nature.
- B.** Abstain from any discussion or votes relative to the matter which is the subject of an impermissible conflict.
- C.** Absent himself/herself from the room in which the discussion and voting take place.

ARTICLE 7: POWERS OF THE ZBA

Section 1. The ZBA shall have the following powers/duties as granted by the Michigan Zoning Enabling Act and the Genoa Township Zoning Ordinance:

- A. Appeal of Administrative Decisions.** To hear and decide appeals where it is alleged by an appellant that there is an error in any order, requirement, permit, decision, or refusal made by the Planning Commission or any administrative official charged with administration or enforcement of the zoning ordinance.
- B. Variances (Dimensional and Use).** To authorize, upon a variance from the strict application of the provisions of the zoning ordinance, where by reason of exceptional narrowness, shallowness, shape or area of a specific piece of property at the time of enactment of the zoning ordinance or by reason of exceptional topographic conditions or other extraordinary or exceptional conditions of such property, the strict application of the regulations enacted

would result in peculiar or exceptional practical difficulties to, or exceptional undue hardship upon the owner of such property, provided such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the zoning ordinance.

- C. Interpretation.** Upon request of the Planning Commission or any administrative or enforcement officer charged with administration or enforcement of the zoning ordinance, the ZBA may interpret and clarify the meaning of zoning ordinance text. The ZBA may also be requested to interpret boundaries of zoning districts where the zoning district classification cannot be clearly discerned on the Official Zoning Map.

ARTICLE 8: OTHER DUTIES

Section 1. Duties. The following are duties which are expected of the individual members of the ZBA.

- A. Ex Parte Contact.** Members shall avoid Ex Parte contact with the Zoning Administrator in cases where an administrative decision is before the ZBA, whenever possible. Sometimes it is not possible to avoid Ex Parte contact. When this occurs the member should take detailed notes about what was discussed and make every member or other interested parties aware of what was said.
- B. Site Inspections.** Members may perform site inspections, however, no more than two (2) members may perform site inspections at the same time. Members should avoid discussing the merits of the request with the applicant, family member of the applicant or agent of the applicant.
- C. Accepting Gifts.** Gifts shall not be accepted by a member of the ZBA or liaisons from anyone connected with an agenda item before the ZBA. As used here, gifts shall mean cash, any tangible item or service, regardless of value and food valued over \$10.
- D. Spokesperson for the ZBA.** The ZBA may appoint a spokesperson for the ZBA for all matters which occur outside of the meetings.

ARTICLE 9: AMENDMENTS

These rules may be amended by the ZBA by a concurring vote during any meeting, provided that all members have received an advance copy of the proposed amendments at least 3 days prior to the meeting at which such amendments are to be considered.