

# Hamburg Township Zoning Board of Appeals Rules of Procedures

Authority granted as set forth in the State of Michigan Township Rural Zoning Act, Act 184, 1943, as amended, Section 20. "The Township Board of Appeals...may fix rules and regulations to govern its procedures sitting as such a Board of Appeals."

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## ~~Section~~**ARTICLE I: OFFICERS AND THEIR DUTIES**

• ~~SECTION 1.~~ The officers of the Board of Appeals shall consist of a Chairman.

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• ~~SECTION 2.~~ The Chairman shall preside at all meetings of the Board.

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~~SECTION 3.~~ The Township Clerk shall keep the minutes of the Board's proceedings.

## ~~ARTICLE~~**Section II: ELECTION AND TERMS OF OFFICERS**

~~SECTION 1.~~ Nomination and election of the chairperson shall be held annually on the first meeting of the year. The term of office shall become effective at the following meeting.

~~SECTION 2.~~ A candidate receiving a majority vote of the entire membership shall be declared elected and shall serve for one (1) year, or until his successor shall take office.

~~SECTION 3.~~ Vacancy – In the event of a vacancy in the office of chairperson, the Board of Appeals shall immediately fill the vacancy for the unexpired term by regular election procedure.

## **1) ~~Section~~ARTICLE III. CONFLICT OF INTEREST AND INCOMPATIBILITY OF OFFICE**

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a. Each member of the Appeals Board shall avoid situations that are conflicts of interest, and/or incompatibility of office. As used here, a conflict of interest shall at a minimum include, but not necessarily be limited to, the following:

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i) Issuing, deliberating on, voting on, or reviewing a case concerning him or her.

ii) Issuing, deliberating on, voting on, or reviewing a case concerning work on land owned by him or her or which is adjacent to land owned by him or her.

iii) Issuing, deliberating on, voting on, or reviewing a case involving a corporation, company, partnership, or any other entity in which he or she is a part owner, or any other relationship where he or she may stand to have a financial gain or loss.

iv) Issuing, deliberating on, voting on, or reviewing a case which is an action which results in a pecuniary benefit to him or her.

v) Issuing, deliberating on, voting on, or reviewing a case concerning his or her spouse, children, step-children, grandchildren, parents, brothers, sisters, grandparents, parents in-law, grandparents in-law, or members of his or her household.

vi) Issuing, deliberating on, voting on, or reviewing a case where his or her employee or employer is:

- (1) an applicant or agent for an applicant, or  
(2) has a direct interest in the outcome.
- b) When a conflict of interest exists, the member of the Appeals Board, shall do all of the following immediately, upon first knowledge of the case and determining that a conflict exists:
- i) declare a conflict exists at the next meeting of the Appeals Board,  
ii) cease to participate at the Appeals Board meetings, or in any other manner, or represent one's self before the Appeals Board, its staff, or others, and  
iii) during deliberation of the agenda item before the Appeals Board leave the meeting, or remove one's self from the front table where members of the Appeals Board sit, until that agenda item is concluded.
- c) If a member of the Appeals Board is appointed to another office, which is an incompatible office with his or her membership on the Appeals Board, then on the effective date of the appointment to the other office, that shall result in an automatic resignation from the Appeals Board. If a member of another office is appointed to the Appeals Board, which is an incompatible office with his or her membership in the other office, then on the effective date of the appointment to the Appeals Board, that shall result in an automatic resignation from the other office.

#### **ARTICLE IIIII: MEETINGS**

- SECTION 1-1 All Board meetings shall be open to the public.
  - SECTION 2-2 All Board meetings shall be held at the call of the chairperson, and at such times as the Board may decide.
  - SECTION 3-3 The regular Board meeting shall be held on the second Wednesday of the month at 7:0030 p.m. in the place and time designated by the Board. The chairperson may cancel this meeting.
- SECTION 4.** A special meeting may be called by the chairperson. All members of the Board shall be informed by written notice, or a call by phone, of the purpose and time of the meeting not less than seven (7) days prior to the date set. A special meeting called at a regular meeting shall satisfy this requirement, providing absent members are informed of the special meeting. An appeal heard at a special meeting must meet the notification requirements of Article IV, Section 3.
- SECTION 5.** Members of the Board shall be sent by mail or receive all information pertinent to an appeal five (5) days prior to a meeting.
- SECTION 6.** A majority of the membership of the Board shall constitute a quorum. A concurring vote of the majority of the membership of the Board shall be necessary to reverse any order, requirement, decision, or determination of any administrative decision, or determination of any administrative official, or to decide any matter upon which the Board is required to pass by law, or the effect any variation in the terms of the Zoning Ordinance.

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A tie vote is considered a non-vote and the issue shall be placed on the next available agenda.

**SECTION 7.** The order of business at Board meetings shall be as follows:

- a. Call to Order
- b. Pledge to the Flag
- c. Roll Call of the Board
- d. Approval of the Agenda
- e. Call to the Public (three (3) minute time limit)
- e. Variances Requested
- f. Old Business
- g. New Business
- h. Approval of Minutes
- i. Adjournment

#### **ARTICLE IV: APPEALS**

**SECTION 1.** All applications to the Zoning Board of Appeals shall be made in writing on forms provided for that purpose and adopted by the board or any forms satisfactory to the Board. Applications shall be made at the office of the township Zoning Administrator. One copy of such application shall be served upon the administrative official from whom the appeal is taken, and such official shall transmit to the Board all papers constituting the record upon which the action of appeal was taken.

**SECTION 2.** In addition to the information required in said forms, all appeals shall contain the following information and data that is applicable thereto:

- a. The principal points on which the appeal is made based on the decision, order, or Section of Ordinance being appealed.
- b. Existing layout of site plan and proposed site plan drawn to scale showing if applicable the following: location and width of road (s) and jurisdiction (public or private road), location and dimensions of existing/proposed construction, dimensions, designation, and heights of existing structures on property clearly marked, dimensions of property, measurement from each side of existing and proposed structure to the property lines, all easements, any bodies of water (lake, stream, river, canal) with waterbody name, distance from any body of water, septic tank and field, sewer tap, water well, north arrow, all areas requiring variances clearly marked with dimensions and amount of variance requested, any outstanding topographic features that should be considered (hills, drop-offs, trees, boulders, etc.).
- c. A clear and accurate description of the proposed use or work.

**SECTION 3.** Notification of the pending appeal hearing shall be made by first class mail to the appellant and to all property owners within 300 feet of the appellant's property. The notice shall be mailed at least seven (7) days prior to the ZBA hearing of the

appeal. A notice of the ZBA meeting listing appeals to be heard shall be published one week in advance of the hearing in the Township's paper of record for legal notice. Appeals upon which an official decision is deferred do not require further notification to surrounding property owners but their reconsideration will be included in newspaper notification of the meeting. (These notification procedures are not a legal requirement, but rather are being included in these Rules of Procedure as a courtesy to nearby property owners. The Township cannot be responsible for notifications that may have been lost in the mail.)

**SECTION 4.** An appeal shall be filed by the applicant within 60 days of the date of order, or determination of such department from which the appeal is taken provided the Board may in exceptional cases for good reason grant additional time.

**SECTION 5.** Applications of appeals for interpretation, adjustment, special exception, or modification of the requirements of the Zoning Ordinance shall be made in the name of the owner, or in the discretion of the Board, by persons having substantial interests and rights in the premises affected. Such applicant may appear in his own behalf or be represented by attorney or agent at the hearings.

**SECTION 6.** The order of procedure shall be:

- a. Presentation of official records of the case.
- b. Applicant's presentation of his case.
- c. Township official's presentation of the case.
- d. Interested property owner's presentation of the case.
- e. Rebuttals in similar order.

**SECTION 7.** The chairperson may require of the applicant additional information and data as is deemed essential to fully advise the Board with reference to the appeal. Refusal or failure to comply shall be grounds for denial of the application by the Board.

**SECTION 8.** An application for a variance which has been denied wholly or in part by the Zoning Board of Appeals shall not be re-submitted for a period of one (1) year from the date of the last denial, except on grounds of newly discovered evidence or proof of changed conditions found upon inspection by the Board to be valid.

**SECTION 9.** An appeal stays all proceedings in furtherance of the action appealed from subject to the conditions enumerated in the State Statutes.

## **~~ARTICLE V: REHEARING~~**

**SECTION 1.** No rehearing of any decision of the Board will be considered unless new evidence is submitted which could not reasonably have been presented at the original hearing of the appeal, or unless there has been a material change in the facts of the case.

~~SECTION 2.~~ Application for rehearing of a case shall be in writing and subject to the same rules, fees, and notification procedures as an original hearing.

#### ~~ARTICLE VI: DISPOSITION OF APPEAL~~

~~SECTION 1.~~ The Board may reverse, affirm, vary, or modify any order, requirement, decision, or determination as in its opinion should be made, and to that end shall have all the powers of the officer from whom the appeal is taken.

~~SECTION 2.~~ The final decision shall be in writing and, so far as it is practicable, in the form of a general statement or resolution reciting the conditions, facts, and finds of the Board. The applicant shall be sent the decision by mail within twelve (12) days of the hearing unless the Board moves for a continuation of such hearing.

~~SECTION 3.~~ Any applicant may, with the consent of the Board, withdraw his application at any time prior to final action thereon. The administrative portion of the fee is not refundable. The Board shall recommend to the Township Board any of the remaining fees that may be refundable.

~~SECTION 4.~~ Any decision of the Board favorable to the applicant shall remain valid only as long as the information or data relating thereto is found to be correct, and the conditions upon which the resolution was based are maintained.

~~SECTION 5.~~ Whenever any variation or modification of the strict application of the terms of the Zoning Ordinance is authorized by resolution of the Board, a Land Use Permit shall be obtained within six (6) months from the date of the grant. Failure to obtain such permit within the specified time shall, invalidate and terminate this grant.

#### ~~ARTICLE VII: CONFLICT~~

Should any provision of these Rules of Procedures be in conflict with the State of Michigan Township Rule Zoning Act, Act 184, P.A. 1043, as amended or amended in the future, the provision shall become inoperative.

#### ~~ARTICLE VIII: AMENDMENTS~~

These Rules of Procedures may be amended at any regular meeting upon an affirmative vote of at least three (3) members of the Board.

#### ~~ARTICLE IX: RULES OF ORDER~~

Robert's Rules of Parliamentary Procedure (latest edition) shall govern the deliberations of this Board suspended or modified by a majority vote of the Board.

Adopted by the Zoning Board of Appeals on April 14, 1999.  
Amended and Adopted November 10, 1999.