

# BOARD OF ZONING APPEALS BYLAWS

## VILLAGE OF LAKE ORION, MI

Adopted:

### **Article I - Purpose**

The following rules of procedure are hereby adopted by the Lake Orion Board of Zoning Appeals (hereinafter known as the BZA) to facilitate the performance of its duties as set forth in Article 18 and Article 19 of the Lake Orion Code of Ordinances; and the Michigan Zoning Enabling Act, PA 110 of 2006, as amended (MCL 125.3601, et seq.) (“the Zoning Act”).

### **Article II - Membership**

**Section 1. Composition.** The membership of the BZA shall be five (5) members (plus two (2) alternates) and appointed according to the procedure as established in the Lake Orion Zoning Ordinance (Section 18.04), and Section 601 of the Zoning Act. One (1) of the regular members of the BZA may be a member of the Planning Commission and one (1) regular or alternate member of the BZA member of the Village Council, but the member of the Village Council shall not serve as chairperson of the BZA. The terms of office for members appointed to the BZA shall be three (3) years, except for members serving because of their membership on the Planning Commission or Village Council, whose terms shall be limited to the time they are members of those bodies. Members of the BZA shall be subject to Section 18.04 of the Lake Orion Zoning Ordinance as to removal, vacancies, and compensation.

**Section 2. Attendance.** A BZA member shall notify the Village Administration and the BZA Chairperson in advance if they are going to be absent from the meeting. If any member of the BZA is absent from three (3) consecutive regularly scheduled meetings, then that member shall be considered delinquent. Delinquency shall be grounds for the Lake Orion Village Council to remove a member from the BZA for nonperformance of duty or misconduct after holding a public hearing on the matter. The BZA secretary shall keep attendance records and shall notify the Village Council whenever any BZA member is absent from three (3) consecutive regularly scheduled meetings, so the Village Council can consider further action allowed under law or excuse the absences.

**Section 3. Training.** Each BZA member shall attend at least four (4) hours per calendar year of training in planning and zoning during the member’s current term of office. Training shall be provided by one or more of the following organizations: Michigan Association of Planning, Michigan State University Extension, Michigan Townships Association, Michigan Municipal League, continuing education programs of Michigan State University, University of Michigan, Northern Michigan University, Central Michigan University, or Wayne State University, or a similar continuing education program found to be acceptable to the Village Administration. BZA members shall produce a list of their trainings to the Village Administration by the end of each calendar year.

**Section 4. Liaisons.** The purpose of liaisons is to provide certain Village officials the ability to

participate in discussion with the BZA in addition to speaking in public, and nothing else. Liaisons cannot vote, introduce motions, initiate any other parliamentary action, be counted for a quorum, or be expected to comply with attendance requirements. Liaisons, if not already appointed BZA members, are Planning/Zoning Department staff and their agents and consultants, or the Village Attorney.

**Section 5. Ethics & Conflicts of Interest.** Each member of the BZA shall abide by the Village Ethics Ordinance (§30.61 et. seq. of the Village Code) as amended from time to time, to avoid or address conflicts of interest and/or incompatibility of office.

**Section 6. Ex Parte Contact.** Members shall avoid ex parte contact about cases where an administrative decision is before the BZA whenever possible. If ex parte contact is unavoidable, BZA members should take detailed notes on what was said and report what was said to the BZA at a public meeting or hearing.

**Section 7. Not Voting on the Same Issue Twice.** Any BZA member 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 Planning Commission, and the BZA member sits both on the Planning Commission and BZA.
- b. When the appeal is of an administrative or other decision by Village Council, and the BZA member sits both on Village Council and the BZA.
- c. When the appeal is of an administrative or other decision by any committee of the Planning Commission, Village Council, other committee, and the BZA member sits both on that committee and the BZA.

### **Article III - Officers**

**Section 1. Nomination.** At the first regular meeting of each fiscal year (on or after July 1<sup>st</sup>) the BZA shall select from its membership a Chairperson, Vice-Chairperson, and Secretary. A candidate receiving a majority vote of the entire membership of the BZA shall be declared elected. A member may accept a nomination in absentia if they have advised the BZA in writing (e-mail is acceptable) prior to the meeting.

All officers are eligible for re-election. In the event the office of the Chairperson becomes vacant, the Vice-Chairperson shall succeed to this office for the unexpired term and the BZA shall select a successor to the office of the Vice-Chairperson for the unexpired term. In the event the office of the Secretary becomes vacant, the BZA may designate another person who is not a member of the BZA to be the recording secretary.

**Section 2. Tenure.** The Chairperson, Vice-Chairperson, and Secretary shall take office the following month after their selection and shall hold office for a term of one-year or until their successors are selected and assume office.

**Section 3. Chairperson Duties.** The Chairperson shall:

- a. Preside at all meeting and hearings of the BZA, and have the duties normally conferred by parliamentary usage on such officers;
- b. Shall rule out of order any irrelevant remarks; remarks which are personal; remarks about another's race, religion, sex, physical condition, ethnic background, beliefs, or similar topics; profanity; or other remarks which are not about the topic before the BZA;
- c. Appoint committees, and appoint officers of those committees or choose to let the committee select their own officers;
- d. Call special meetings;
- e. Represent the BZA, along with the Village Council BZA member, before Village Council or the Planning Commission; and
- f. Perform such other duties as may be ordered by the BZA.

**Section 4. Vice-Chairperson Duties.** The Vice-Chairperson shall act as the Chairperson in their absence and perform such other duties as may be ordered by the BZA.

**Section 5. Secretary Duties.** The Secretary shall:

- a. Execute documents in the name of the BZA;
- b. Be responsible for the minutes of each meeting, if there is not a recording secretary;
- c. Review the draft of the minutes, sign them, and submit them for approval by the BZA. Copies of minutes shall be distributed to each BZA member prior to the next meeting of the BZA (the Secretary may delegate this duty to Village staff);
- d. Receive all communications, petitions and reports to be addressed by the BZA, delivered or mailed to the Secretary in care of the Village office;
- e. Keep attendance records;
- f. Provide notice to the public and members of the BZA for all regular and special meetings, pursuant to the Open Meetings Act, PA 267 of 1976, as amended, MCL 15.261 et seq. (the Secretary may delegate this duty to Village staff); and
- g. Prepare an agenda for BZA meetings (the Secretary may delegate this duty to Village staff).

## **Article IV - Meetings**

**Section 1. Regular Meetings.** Regular meetings shall be held on the first Thursdays of each month at 6:30 PM, or as needed, in the Village Council Chambers at the Lake Orion Village Hall, Lake Orion, Michigan or where otherwise designated by Village Council. When the regular meeting falls on a holiday, the meeting shall be held on such other day as determined by the BZA. When there is no business scheduled, the Chairperson may cancel the meeting.

**Section 2. Majority.** There are five (5) members on the BZA, plus two (2) alternates. Three (3) members constitute a quorum. A majority vote of those present and voting is required for a motion of approval or denial.

**Section 3. Motions.**

- a. Motions shall be restated by the Chairperson before a vote is taken.
- b. Findings of Fact. All actions taken in an administrative capacity (including but not limited to appeals, variances, determination of compliance with an adopted plan) shall

include each of the following parts:

1. The findings of fact, listing what the BZA determines to be relevant facts (including parcel owner, parcel legal description, what is applied for) in the case in order to eliminate misleading statements, hearsay, irrelevant, and untrue statements.
  2. Conclusions, listing reasons based on the facts for the BZA's action.
  3. The BZA's action, recommendation or position, approval, approval with conditions, or disapproval.
- c. Any other motion shall be stated in prose or in the form of a resolution.

**Section 4. Voting.** Voting shall be by voice vote or roll call vote; roll call votes shall be recorded by "yes" or "no" as part of the minutes. If a member abstains from the vote, it shall be recorded as such in the minutes.

**Section 5. Special Meetings.** Special meetings may be called by the Chairperson. It shall be the duty of the Chairperson to call such a meeting when requested to do so in writing by a majority of the members of the BZA. The notice of such a meeting shall specify the purposes of such a meeting and no other business may be considered except by unanimous consent of the BZA. The Secretary shall notify all members of the BZA in writing not less than five (5) days in advance of such special meeting.

**Section 6. Petitioner Attendance.** When a petitioner fails to appear at a properly scheduled BZA meeting, the Chairperson may entertain a motion from the BZA to dismiss the case for want of prosecution. In the absence of a motion by the BZA, the Chairperson shall rule. In cases which are dismissed for want of prosecution, the petitioner will be furnished written notice of the action by the Secretary. The applicant shall have seven (7) days from the date of the notice of dismissal to apply for reinstatement of the case. In such cases, applicant must file a written request with the Village Administration for reinstatement. Reinstatement shall be at the discretion of the Chairperson for good cause shown, and upon payment of a fee set from time to time by the Village Council. In all cases reinstated in the above-described manner, the case will be docketed and re-advertised in the usual manner prescribed for new cases.

**Section 7. Recesses.** The Chairperson, or the BZA, after the meeting has been in session for two (2) hours, shall suspend the BZA's business and evaluate the remaining items on its agenda. The BZA shall then decide to finish that meeting's agenda, may act to continue the meeting on another day (fix the time at which to adjourn), or complete some agenda items and continue the meeting on another day to complete other agenda items or postpone certain agenda items to the next meeting. If applicable such action shall include the time, day, month, date, year and location the BZA will reconvene. If more than 18 hours will pass before the reconvened appeals board meeting, public notice shall be given to comply with PA 267 of 1976, as amended, (being the Michigan Open Meeting Act M.C.L. 15.261 et seq.). Upon reconvening, a roll call of attendance shall be the first item of business before proceeding with the same agenda. The BZA shall resume with the same meeting agenda, proceeding at the same point where they left off, without the addition of additional business.

## **Article V - Order of Business**

**Section 1. Order.** The order of business at regular meetings shall be:

- I. Call to Order
- II. Roll Call and Determination of Quorum
- III. Approval of Agenda
- IV. First Hearing of the Public for Non-Agenda Items Only (3 minute limit)
- V. Approval of Minutes
- VI. BZA Preface
- VII. New Business
- VIII. Action Items\*
- IX. Unfinished Business
- X. Second Hearing of the Public for Non-Agenda Items Only (3 minute limit)
- XI. Board Member Comments
- XII. Adjournment

\*Public Hearing on Specific Agenda Item to be included in specific case.

**Section 2. Parliamentary Procedure.** Parliamentary procedure shall be governed by Robert's Rules of Order by Henry Martyn Robert for issues not specifically covered by these bylaws. Where these bylaws conflict or are different than Robert's Rules of Order, then these bylaws control.

### **Section 3. Public Participation.**

- a. All meetings, hearings, records, and accounts shall be open to the public, and posted in compliance with PA 267 of 1976, as amended, (being the Michigan Open Meetings Act). All regular and special meetings, hearings, records, and accounts shall be open to the public.
- b. All public comment on all agenda items should be presented at the beginning of the meeting where provided in the printed agenda. After that point during the meeting, public comment is normally not allowed; however, sometimes the BZA may direct questions to members of the public. Public comment is at the beginning of the meeting so the BZA can hear concerns and questions before acting on an issue. Those making public comment are expected to be familiar with the issue and have prepared comments ahead of time. To help the public in preparing for the meeting, any written material shall be made available without cost for members of the public asking for a copy prior to the meeting.
- c. Members of the public shall be allowed a maximum of three (3) minutes for each person wishing to make public comment at a BZA meeting. The Chairperson may ask members of the audience to caucus with others sharing similar positions so they may select a single spokesperson. If a single spokesperson is selected, that individual shall be able to make public comment at the BZA meeting without time limit or an extended time limit.

**Section 4. Delivery of Agenda.** The agenda and accompanying materials shall be hand delivered or emailed to BZA members, so it is reasonably expected to be received at least five (5) days prior to the regular meeting date.

**Section 5. Minutes and Record.** The Secretary shall keep, or cause to be kept, a record of BZA meetings, including meeting notices; a copy of the minutes and all attachments and summaries; and any action, supporting documents, or correspondence.

**Section 6. Retention.** BZA records shall be preserved and kept on file according to the State of Michigan General Retention Schedules for Local Governments.

## **Article VI – Appeals and Hearings**

### **Section 1. Filing for an Appeal.**

- a. The following may file for an appeal:
  1. Any aggrieved person, or the person’s authorized agent;
  2. Officer, department, board, or bureau of the state; and
  3. Officer, department, board, or bureau of a local unit of government.
- b. The filing for an appeal of a decision or for a variance shall be in writing on a form provided by the Village Administration, and upon payment of a fee as may be established by the Village Council. Such Demand for Appeal shall be filed with the Village not more than 30 days from the date of the decision being appealed. A Demand for Appeal for a variance shall be filed with the Village at any time.
- c. Within 10 days from the date of the receipt of the Demand for Appeal which is found to be complete, the Village Administration shall contact the Chairperson of the BZA and set up a date(s) and time for the BZA to meet to hold a hearing and a meeting to consider and act on the case.

**Section 2. Hearings.** Before granting or rejecting an Appeal or Variance, the BZA shall hold a public hearing on the matter:

- a. Notice of the time and place of the hearing shall be given, not less than fifteen (15) days prior to such hearing, by at least one publication in a newspaper of general circulation.
- b. Notices shall be:
  1. Sent by mail or personal delivery to owner(s) of property(ies) for the land which is the subject of the appeal.
  2. Sent by mail or personal delivery to all persons to whom real property is assessed within 300 feet of the property(ies) which is the subject of the appeal regardless of whether the owner and property is located in the zoning jurisdiction or not.
  3. Sent by mail or personal delivery to all persons which occupy all structures within 300 feet of the property(ies) which is the subject of the appeal regardless of whether the structure and occupant is located in the zoning jurisdiction or not.
- c. The notice shall include the following information:
  1. Describe the nature of the request;
  2. Indicate the property(ies) which is(are) subject of the hearing;
  3. A listing of all existing street addresses within the property(ies) which is(are) subject of the appeal (street addresses do not need to be created and listed if no such addresses currently exist); if there are no street addresses another means of identification may be used;
  4. A statement of when and where the issue will be considered; and

5. An indication of when and where written comments will be received.

**Section 3. Deadline for Action.** The BZA shall hear a case and render and file its decision with a statement of reasons for the decision with the Village Administration not more than 30 days after receipt of the case unless a longer period of time is mutually agreed upon by the petitioner and BZA.

**Section 4. Other Hearings.** In addition to the hearings required by law, the BZA may at its discretion hold public hearings when it decides that such hearings will be in the public interest.

**Article VII – Annual Report**

The BZA shall make a written report to the Village Council of the work of the BZA during the preceding calendar year.

**Article VIII – Amendments**

These Bylaws may be amended by at least 2/3 vote of the entire membership of the BZA, provided notice of the proposed change is given at a previous meeting.

**Article IX – Adoption**

These Bylaws were adopted on December 7, 2023, and will take immediate effect.

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Bradley Mathisen  
Board of Zoning Appeals Chairperson

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Dr. Brenton Bailo  
Board of Zoning Appeals Secretary

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Susan Galeczka  
Clerk, Village of Lake Orion