



Village of Peck Zoning Board of Appeals By-Laws

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STATEMENT OF BY-LAWS

VILLAGE OF PECK ZONING BOARD OF APPEALS

ARTICLE I – AUTHORITY

- 1.1 These Rules of Procedure are adopted by the Village of Peck Zoning Board of Appeals (the “Board”) pursuant to Public Act 110 of 2006, the Michigan Zoning Enabling Act, and Public Act 267 of 1976, as amended, the Open Meetings Act.

ARTICLE II – MEMBERSHIP

- 2.1 Members. Members of the Board shall be set by number and appointed according to the procedure as established in the Section 7.1 of the Village of Peck Zoning Ordinance and section 601 of P.A. 110 of 2006, as amended, (being the Michigan Zoning Enabling Act, M.C.L. 125.3601). The Board will consist of five (3) members.
- 2.2 Terms. The members of the Board and alternates shall serve for three (3) year terms.
- 2.3 Attendance. If any member of the Board is absent from four (4) consecutive regularly scheduled meetings, then that member shall be considered delinquent. Delinquency shall be grounds for the Village Council to remove a member from the Board for nonperformance of duty, or misconduct, after holding a public hearing on the matter. The Recording Secretary shall keep attendance records and shall notify the President whenever a member of the Board is absent from four (4) consecutive regularly scheduled meetings, so the Village Council can take such further action allowed under law or excuse the absences.
- 2.4 Incompatibility of Office. Each member of the Board shall avoid incompatibility of office as provided in the Michigan Incompatible Public Offices Act, MCL 15.181, *et seq.* If a member of the Board accepts an appointment to another office, which is an incompatible office with his or her membership on the Board, then he or she shall resign from the Board.
- 2.5 Officers. At the January meeting, the Board shall elect from its membership a Chairperson and Vice-Chairperson who shall serve for a twelve-month period and who shall be eligible for re-election. The officers shall take office immediately following their selection. They shall hold their office for a term of one (1) year, or until successors are elected and assume office.

2.6 Duties.

A. Chairperson

1. The Chairperson shall preside at all meetings of the Board.
2. The Chairperson shall appoint all committees or advisory committees established and provided by the Board.
3. Call special meetings pursuant to these By-laws and Rules of Procedure.
4. Ensure all actions of the Board are properly taken and perform such other duties as may be ordered by the Board.
5. Such other duties as may be ordered by the Board.

B. Vice-Chairperson

1. In the event of the absence of the Chairperson or during his or her inability to discharge the duties of the office of Chairperson, such duties shall, for the time being, be performed by the Vice-Chairperson.

2.7 Vacancies. If a vacancy occurs on the Board, the vacancy shall be filled for the unexpired term in the same manner as provided for the original appointment. If a vacancy occurs in the office of the Chairperson, the Vice-Chairperson shall serve as Chairperson until a new Chairperson is elected. All Board members shall hold office until his or her successor is appointed.

2.8 Conduct. Members, including alternate members, are obligated to maintain due diligence and may be recommended to Peck Village Council for dismissal upon:

- A. Behaving in a manner to bring discredit on the Board, or by engaging in conduct unbecoming of a Board member. Recommendation for dismissal may be made through a motion and second by any member of the Board.

ARTICLE III – MEETINGS

3.1 Meeting Notices. Notice of all meetings shall be posted at Village Hall according to the Open Meetings Act. The notice shall include the date and time of the meeting.

3.2 Special Meetings. A special meeting may be called by the Chairperson. The business which the Board may perform at a special meeting shall be set forth in the notice of the meeting. The special meeting shall be conducted as a public meeting of the Board 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 the Municipal Planning Act if applicable and the Secretary shall send written notice of a special meeting to Board members not less than 48 hours in advance of the meeting.

3.3 Quorum. Three (3) members of the Board shall constitute a quorum. In order for the Board to conduct business or take any official action, a quorum shall be present. When a quorum is not present, no official action, except for closing the meeting may take place. The members of the Board may discuss matters of interest but may take no action until the next regular or special meeting.

3.4 Hearings. Hearings shall be scheduled, and due notice given in accordance with the Open Meetings Act and the Planning Enabling Act and Zoning Enabling Act as may be applicable.

Public hearings conducted by the Board shall be run in an orderly and timely fashion. This shall be accomplished by the following procedure:

- A. The Chairperson shall open the hearing indicating the basic nature of the request, citing public notice in official newspaper, and notification of neighboring properties (if applicable).
- B. The Chairperson shall announce the order of the hearing which is as follows:
 - 1. Review by Village staff/professionals.
 - 2. Comments and explanations by applicant.
 - 3. Questions from the Board.
 - 4. Responses by Village staff/professionals and/or applicant.
 - 5. Opening of hearing for public comments.
 - 6. Close hearing to public comments.
 - 7. Responses by Village staff/professionals and/or applicant.
- C. Public comment during hearings shall be limited to five (5) minutes per person. By consensus of the Board, additional speaking time may be allotted to a member of the public to present additional information.

3.5 Public Participation. All regular and special meetings, hearings, records, and accounts shall be open to the public. The following procedures shall apply for public comment during all regular and special meetings.

- A. All public comments on all agenda items and non-agenda items outside of public hearings should be presented at the beginning of the meeting when provided in the printed agenda. After that point during the meeting, public comment is normally not allowed; however, the Board may direct questions to members of the public. Public comment is at the beginning of the meeting so the Board can hear concerns and questions before acting on an issue. Those making public comments 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 to members of the public asking for a copy prior to the meeting.
- B. Public comments during the public comment section of the agenda shall be limited to five (5) minutes per person. By consensus of the Board, additional speaking time may be allotted to a member of the public to present additional information.
- C. Where determinations of appropriateness of comments are necessary, the decision shall be made by the Chairperson.

3.6 Motions. Motions shall be restated by the Chairperson before a vote is taken. The name of the maker and the supporter of the motions shall be recorded.

3.7 Voting.

- A. An affirmative vote of the majority of the members of the Board present at a meeting shall be required for the approval of any requested action or motion placed before the Board, unless the Zoning Enabling Act or other statute requires an affirmative vote of the majority of the total membership which is three (3) members.
- B. Voting shall be by roll call.
- C. All members of the Board including the Chairperson shall vote on all matters. Any member may be excused from voting but only if that person has an actual conflict of interest as set forth in Section 9 herein.

3.8 Order of Business. A written agenda for all regular and special meetings shall be prepared as follows. The order of business shall be:

- A. Call to Order/Attendance.
- B. Approval of Minutes.
- C. Public Comments.
- D. Public Hearings.
- E. Old Business.
- F. New Business.
- G. Planning and Zoning Administrator's Report.
- H. Adjournment.

3.9 Rules of Order. All meetings of the Board and any committees shall be conducted in accordance with generally accepted parliamentary procedure, as governed by "Robert's Rules of Order".

3.10 Notice of Decision. A written notice containing the decision of the Board will be sent to the applicant of the request.

ARTICLE IV – MINUTES

4.1 Board minutes shall be prepared under the supervision of the Recording Secretary of the Board as identified below. The minutes shall contain a brief synopsis of the meeting, including a complete restatement of all motions and recording of votes; complete statement of the conditions or recommendations made on any action; and a recording of attendance. All communications, actions, and resolutions shall be attached to the minutes. The official records shall be deposited with and kept by the Village Clerk/Recording Secretary.

ARTICLE V – STAFF

5.1 Recording Secretary. The Village Clerk shall be the Recording Secretary of the Board. The Recording Secretary shall keep the minutes of all meetings of the Board and sign the adopted version of the minutes. The Recording Secretary shall be responsible for all notices pertaining to meetings and recording of official acts of the Board. The Recording Secretary/Village Clerk shall not be a member of the Board.

5.2 Planning and Zoning Administrator. The Planning and Zoning Administrator shall be responsible for all agendas, staff reports, correspondence and notices pertaining to meetings and official acts of the Board.

ARTICLE VI – DEMAND FOR APPEAL

6.1 Filing. The following may file for appeal:

- A. Any aggrieved person, or the person's authorized agent;
- B. Officer, department, board, or bureau of the state; and
- C. Officer, department, board, or bureau of a local unit of government.

6.2 The filing for an appeal of a decision or for a variance shall be in writing on a form provided by the Planning & Zoning Administrator, and upon payment of a fee as may be established from time to time by the legislative body. Such Demand for Appeal shall be filed with the zoning administrator 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 zoning administrator at any time.

6.3 Notification. Within 10 days from the date of the receipt of the Demand for Appeal, which is found to be complete, the zoning administrator shall contact the Chairperson of the Board and set up a date(s) and time for the Board to meet to hold a hearing and a meeting to consider and act on the case. Notice of such meeting(s) shall be made by the zoning administrator as specified in these Rules of Procedure.

6.4 Deadline for Action. The above notwithstanding, the Board shall hear the case and render and file its decision with a statement of reasons for the decision with the zoning administrator not more than 30 days after receipt of the case, unless a longer period of time is mutually agreed upon by the petitioner and Board.

6.5 Notice of Decision. A written notice containing the decision of the Board will be sent to the applicant of the request.

**ARTICLE VII –
OPEN MEETINGS & FREEDOM OF INFORMATION PROVISIONS**

- 7.1 All meetings of the Board shall be open to the public and held in a place available to the general public.
- 7.2 All deliberations and decisions of the Board shall be made at a meeting open to the public.
- 7.3 A person shall be permitted to address a hearing of the Board under the rules established in Subsection 3.5, and to address the Board concerning non-hearing matters under the rules established in Subsection 3.6 to the extent that they are applicable.
- 7.4 All records, files, publications, correspondence, and other materials are available to the public for reading, copying and other purposes and are governed by the Michigan Freedom of Information Act.

ARTICLE VIII – ANNUAL REPORT

- 8.1 The Board shall, before the 31st day of March of each year, submit to the Village Council, a written report of its activities covering the previous year, indicating the status of planning activities including recommendations regarding actions by the Village Council related to planning and zoning.

ARTICLE IX – CONFLICT OF INTEREST

- 9.1 A Board member shall vote on all matters unless there is a legitimate conflict of interest. If a Board member has a conflict of interest as to any matter before the Board, he or she shall not vote on the matter.
- 9.2 As used herein, a conflict of interest shall at a minimum include, but not necessarily be limited to, the following:
- A. Issuing, deliberating on, voting on, or reviewing a case concerning him or her.
 - B. Issuing, deliberating on, voting on, or reviewing a case concerning work on land owned by him or her or which is immediately adjacent to land owned by him or her.
 - C. 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.
 - D. Issuing, deliberating on, voting on, or reviewing a case which is an action which results in a pecuniary benefit to him or her.

- E. Issuing, deliberating on, voting on, or reviewing a case concerning his or her spouse, children, stepchildren, grandchildren, parents, brothers, sisters, grandparents, parents-in-law, grandparents in-law, or members of his or her household.
- F. 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 pecuniary interest in the outcome.

9.3 If there is a question whether a conflict of interest exists or not, the question shall be put before the Board. Whether or not a conflict of interest exists shall be determined by a majority vote of the remaining members of the Board.

9.4 When a conflict of interest exists, the member of the Board shall do the following immediately, upon first knowledge of the case and determining that a conflict exists:

- A. Declare a conflict exists at the first subsequent meeting of the Board.
- B. Cease to participate at the Board meetings, or in any other manner, or represent oneself before the Board.

ARTICLE X – AMENDMENTS

The Board may amend these rules by a concurring vote pursuant to Subsection 3.8, during any regular meeting, provided that all members have received an advance copy of the proposed amendments at least three days prior to the meeting at which such amendments are to be considered.

ARTICLE XI – ADOPTION

These Zoning Board of Appeals By-laws and Rules of Procedure were adopted at a regular meeting of the Board held on April 19, 2023.

ARTICLE XII - EFFECTIVE DATE

These by-laws of the Village Zoning Board of Appeals, Village of Peck Sanilac County, Michigan were adopted at a regular meeting of the Zoning Board of Appeals held on (ENTER DATE). The rules shall have immediate effect.

ARTICLE XIII - EFFECT AND INTERPRETATION OF BY-LAWS

All by-laws and parts thereof which conflict with any of the terms of these by-laws, are hereby rescinded. The catch line headings which precede each section of these by-laws are for convenience and reference only and shall not be taken into consideration in the construction or interpretation of any of the provisions of these by-laws.

The rules were adopted following a motion by Commissioner (Add name) and supported by Commissioner (Add name). The following Commissioners voted for adoption of the rules of procedure:

Commissioner Name:	Aye:	Nay:	Absent:
1. _____	_____	_____	_____
2. _____	_____	_____	_____
3. _____	_____	_____	_____

Dated: _____

Chair – ZBA

Dated: _____

Secretary – ZBA