

PLANNING COMMISSION BY-LAWS

ONTWA TOWNSHIP
Cass County, Michigan

Adopted

Prepared by

ONTWA TOWNSHIP PLANNING COMMISSION

Assisted by

WILLIAMS & WORKS

BY-LAWS AND RULES OF PROCEDURE

I. AUTHORITY.

These By-laws or Rules of Procedure are adopted by the Ontwa Planning Commission (hereinafter referred to as the Commission) pursuant to the Michigan Planning Enabling Act (Act 33 of 2008, as amended), the Michigan Zoning Enabling Act (Act 110 of 2006, as amended), the Open Meetings Act, the Freedom of Information Act, and the Ontwa Township Zoning Ordinance.

II. MEMBERSHIP.

A. Members

The Planning Commission shall consist of not more than nine (9) members, who shall be appointed by the Township Supervisor with the approval of the Township Board in accordance with the Planning Enabling Act and the Ontwa Township Zoning Ordinance and who shall be representative of major interests as they exist in the Township, such as agriculture, recreation, education, public health, government, commerce, transportation and industry.

B. Officers

1. Officers and their selection. At the first meeting of the Commission in the calendar year, the Commission shall select from its membership a Chairperson and Vice-Chairperson, who shall serve for a one (1) year period and who shall be eligible for reelection.
2. Duties. A Chairperson shall preside at all meetings and shall conduct all meetings in accordance with the rules provided herein. The Vice-Chairperson shall act in the capacity of the Chairperson in the absence of the Chairperson and shall succeed to the office of Chairperson in the event of a vacancy in that office, in which case the Commission shall select a successor to the office of Vice-Chairperson at the earliest practical time.
3. Tenure. Planning Commission members shall serve terms of three (3) years. Terms shall be staggered such that 1/3 of the membership is eligible for reappointment by the Board of Trustees each year, except that the term of a member of the Board of Trustees shall expire with his/her term on the Township Board. Members shall take office immediately following their election. A successor shall be appointed not more than one month after the term of the preceding commission member has expired. All vacancies for unexpired terms shall be filled for the remainder of such term.

C. Secretarial Duties

1. Secretary. The Commission may select from its membership a Secretary or it may select a non-member to act as Secretary. The Secretary shall have the responsibility of keeping the minutes or record of all meetings and other pertinent records, conducting all necessary correspondence, and performing such other administrative duties as are designated by the Commission.
2. Zoning Administrator. The Zoning Administrator or other person authorized by the Township Board shall be responsible for preparing and giving all notices of public hearings and meetings, preparing, posting and otherwise serving all Open Meetings Act meeting notices, notifying Commission members of meetings, delivering communications, petitions, reports and related items of business to the Commission, and preparing all written decisions or orders of the Commission.
3. Annual Report. Pursuant to the Michigan Planning Enabling Act, the Secretary or his/her designee shall prepare an annual written report to the Board of Trustees concerning its operations and the status of planning activities, including its recommendations to the Township Board related to planning and development.

D. Membership Rules

1. A member of the Commission may be removed from office by the Township Supervisor with the approval of the Township Board for non-performance of duty or misconduct in office upon written charges and after a public hearing. Consequently, it shall be considered an act of non-performance of duty and grounds for removal if a member has three (3) consecutive unexcused absences from regularly scheduled meetings or if a member misses at least fifty percent (50%) of the meetings, both regular meetings and special meetings, within a twelve (12) month period. As the first step in the removal proceedings, the Secretary shall prepare a memorandum requesting that the member resign. If the member fails to resign, a request shall be made by the Commission to the Township Supervisor to take the next step in the removal process.
2. All members shall be qualified electors of and property owners in the Township. Consequently, if any member is no longer a qualified elector of the Township due to the removal of his/her place of residence from the Township, or if any member is no longer a property owner in the Township, said member's position on the Commission is automatically vacated regardless of whether a written resignation is received from said member; and the Commission shall notify the Supervisor that a vacancy exists and the Supervisor, with the approval of the Township Board, shall fill the vacancy at the earliest possible date.

3. One member of the Township Board shall be a member of the Commission, and his/her service on the Commission shall be concurrent with his/her term of service on the Township Board.
4. Members are required to attend, either in person or online, at least one continuing education session or course pertaining to planning or zoning each year to be eligible for reappointment. Commission members are encouraged to seek out and share information pertaining to educational opportunities to members.
5. Ex Parte Communication.
 - a) For purposes of these Rules, ex parte communication shall mean oral or written, off-the record communication (including social media communication) made to or by Commissioners, without notice to parties that is directed to the merits or outcome of a business item that is currently or likely be under consideration by the Planning Commission.
 - b) The Commission desires to conduct all proceedings fairly, to create a record that includes all of the evidence upon which recommendations and decisions were made, and to prevent the appearance of undue influence on its recommendations and decisions. To this end, Commission members should avoid ex-parte communication and if any such communications are received, Commission members shall disclose the details of the communication at the Commission meeting after the introduction of the item of which the ex-parte communication pertained. Written communications or emails not addressed to the entire Commission from applicants or the public regarding Planning Commission business must be disclosed to all Planning Commission members. Such correspondence shall be shared in its entirety with the Commission and contents shall not be screened, summarized, or edited prior to disclosure to the Commission.
 - c) Commission members may attend meetings held by applicants with adjacent property owners, however only in the capacity of an observer, and only if a quorum of the Commission is not present, unless there has been proper notice of the meeting as set forth in these Rules. If a Commission member does decide to take part in discussions at said meeting, the Commissioner shall disclose the nature of their participation to the Commission prior to participation in a hearing, deliberation, or voting on a request. The Commission shall make a determination as to whether or not the Commissioner can impartially consider the request.

III. MEETINGS.

A. Types of Meetings

1. Regular meetings. Regular meetings of the Commission may be held in the Township Hall on a date established by the Board at the first meeting of the Board in the calendar year. The date, time, and place shall be posted at the Township Hall no later than ten (10) days after the date of the meeting establishing the regular meeting dates. Any changes in the date, time, or place of the regular meetings shall be posted and noticed in the same manner as originally established. When a regular meeting date falls on or near a legal holiday, the Commission may select suitable alternate dates in the same month in accordance with the Open Meetings Act.
2. Special meetings. Special meetings may be held at the call of the Chairperson, or they may schedule in advance during a regular meeting; and in both instances, at least two (2) days' notice shall be given in advance of the meeting by posting a copy of the notice at the Township and by mailing or delivering a copy of the notice, or by contacting each member of the Commission.

B. Place of Meetings

Regularly scheduled meetings may be held in the Township Hall. Whenever the regular meeting place of the Commission shall appear inadequate for members of the public to attend, the Chairperson may change the meeting to a larger facility located in the Township. A notice of such change shall be prominently posted on the door of the regular meeting place.

C. Time of Meetings

Regularly scheduled meetings may begin at 7:00 o'clock in the evening unless the Commission shall by majority vote in session set an earlier or later starting time. The Commission shall not begin considering any matter on the agenda not yet under consideration by the hour of 10:30 o'clock in the evening except by unanimous consent of the Commission members present. Matters on the agenda and not yet acted upon at the time of adjournment will be placed on the agenda of the next regular meeting or special meeting, if one is called.

D. Change in Schedule of Regular Meetings

Changes in the schedule of regular meetings shall not be made except upon the approval of a majority of the Commission members in attendance.

E. Notice of Meetings

1. Regular meetings. Dates of regular meetings of the Commission shall be established at the Commission's first meeting of the calendar year and notice of the dates, time and place of such meetings shall be posted in a conspicuous place at the Township Hall within ten (10) days of the establishment of said meeting dates and copies of the schedule of regular meetings shall be delivered or mailed to each member of the Commission. Any changes in the date, time or place of a regular meeting shall be posted at the Township Hall within three (3) days after the meeting at which the change is made and at least two (2) days before the rescheduled regular meeting, and notice of the change shall be given to each member of the Commission at least two (2) days before the rescheduled meeting.
2. Special meetings. Notice of special meetings shall be posted in a conspicuous place at the Township Hall and given to each member of the Commission at least two (2) days before the special meeting. Such notice shall be served by the Zoning Administrator upon the members personally, left at the member's usual place of residence, or mailed to them in ordinary first class mail. The notice shall contain the date, time, place and purpose of the meeting.
3. Notification to media and others. The Zoning Administrator shall notify, without charge, any newspaper or radio or television station of such meeting schedule, schedule changes, or special meetings, whenever such newspaper or radio or television station shall have filed with the Commission a written request for such notice. The Zoning Administrator shall also notify other individuals or organizations of regular meeting schedules, changes in the schedule, or special meetings, but only upon their written request. The Zoning Administrator shall mail all such notices by first class mail.

F. Quorum

In order for the Commission to conduct business or take official action, a quorum consisting of at least a majority of the total membership of the Commission shall be present. When a quorum is not present, no official action, except closing of the meeting, may take place. The members of the Commission may discuss matters of interest, but can take no action until the next regular or special meeting. In the event the Commission shall meet and a quorum is not present, the Commission, upon the action of a majority of those present, may adjourn the meeting to another day provided that proper notice is given to the members and to the public.

IV. PUBLIC HEARINGS.

A. In General

If time for notice allows, meetings at which public hearings are held shall be scheduled for the next regular or special meeting.

B. Notice of Public Hearings

Public hearings shall be scheduled and due and proper notice shall be given by the Zoning Administrator in compliance with the Michigan Zoning Enabling Act (Act 110 of 2006, as amended) and the Ontwa Township Zoning Ordinance.

C. Conflict of Interest

1. Disqualification from participation as a member. All members of the Planning Commission shall represent and advocate for Ontwa Township as a whole, putting aside personal or special interests. A member shall be disqualified from participating and voting on any issue in which the member has a conflict of interest.
2. Definition of conflict of interest. A member of the Commission shall be deemed to have a conflict of interest as to any matter or proceeding pending before the Commission if: (1) the member has a direct or indirect pecuniary or financial interest in the outcome of the matter at issue; or (2) the matter at issues involves the member's business or place of employment; or (3) participation in making a decision might violate the letter or spirit of a member's code of professional ethics or responsibility; or (4) the member has such close personal ties to the applicant that the member cannot reasonably be expected to exercise sound judgment in the public interest.
3. Raising issue of conflict of interest. Although the issue of whether or not a member has a conflict of interest should be raised by the member who believes he/she has a conflict of interest, the issue of a conflict of interest may also be raised by another member of the Commission or by the applicant for the relief being sought under the Zoning Ordinance. The issue should be raised prior to the commencement of the public hearing or as soon as the conflict of interest is discovered.
4. Determination of issue of conflict of interest. The determination of a conflict of interest shall be made by the Commission upon motion of the member claiming a conflict of interest or upon motion of another member of the Commission.

5. Grounds for removal. Failure of a member to raise the issue of a possible conflict of interest and to have the Commission rule upon it shall constitute misconduct in office and shall be grounds for removal from office.

D. Format for Conducting a Public Hearing

1. Opening remarks by chairperson. The Chairperson of the Commission shall officially open the hearing and he/she shall announce that the public hearing is being conducted on an application for relief under the Zoning Ordinance and that the purpose of the hearing is to receive input from the applicant and the public regarding the subject of the hearing. The Chairperson should give a brief description of the subject of the hearing and any history or other information which might be relevant to the hearing.
2. Announcement of hearing rules. The Chairperson shall also announce the following hearing rules:
 - a. This is a public hearing designed to receive comments on the above subject. Only comments regarding this subject will be accepted, and the Commission and applicant for relief will not be required to answer questions posed by members of the public unless deemed appropriate by the Chairperson.
 - b. All persons wishing to comment shall be given an opportunity to do so.
 - c. The person addressing the Commission shall state his/her name and address and make comments directly to the Commission.
 - d. Each person speaking shall limit his/her comments to three (3) minutes.
 - e. Everyone shall have an opportunity to speak before a person is allowed to speak a second time.
 - f. If at any time during the hearing, the Chairperson feels no other relevant comments are being stated or the public is out of order, a motion may be requested to close the public hearing. The Chairperson may, at his/her discretion, terminate unreasonably repetitive, irrelevant, or lengthy comments which are non-productive to the issue at hand.
3. Remarks and/or recommendation by Zoning Administrator. The Commission may allow the Zoning Administrator to address the

Commission in regard to the relief being sought by the applicant and to make a recommendation if the Zoning Administrator deems it appropriate.

4. Presentation by Applicant. This shall include:
 - a. Remarks by applicant or spokesman for applicant, if any;
 - b. Reading of correspondence in support of applicant;
 - c. People in audience speaking in support of application; and
 - d. Questioning by Commission.
5. Presentation by opposition. This shall include:
 - a. Remarks by spokesman for opposition, if any;
 - b. Reading of correspondence in opposition to application;
 - c. People in audience speaking in opposition to application; and
 - d. Questioning by Commission.
6. Applicant's rebuttal
 - a. The applicant will be allowed to respond only to matters raised in the opposition's presentation - not new matters or a rehash of matters already covered.
 - b. Additional questioning by Commission, if any.
7. Deliberations
 - a. Upon conclusion of the presentations, the Chairperson shall request a motion to close the public portion of the hearing for Commission deliberations. No further input shall be allowed from the applicant or public after commencement of deliberations unless specifically requested by the Commission.
 - b. Deliberations should involve the following:
 - (1) A pro and con discussion among the members of the Commission;

- (2) Formulation of a motion rendering a decision on the matter before the Commission, which motion must include the reasoning or rationale in support of the decision.

8. Voting on motion. Before the motion is voted upon, it should be restated by the Secretary for purposes of clarifying the meaning of the motion. The motion should then be voted upon, with all members present voting and without any member abstaining.
9. Announcement of decision and adjournment. The announcement of the results of the voting and the meaning of the decision should be done by the Chairperson. Thereafter, the hearing should be adjourned.

V. CONDUCT OF MEETINGS.

A. Order of Business

The order of business at a Commission meeting shall be as follows:

Call to order.

Roll call.

Announcement of agenda.

Approval of minutes of previous meeting.

Public comments and communications concerning items not on the agenda.

Old business (any unfinished or ongoing business).

New business.

Public hearing(s).

Where a meeting includes a public hearing, consideration of old and new business may be waived to allow more time for consideration of the subject of the hearing.

B. Motions

Motions for decisions on matters before the Commission shall be restated by the Secretary before a vote is taken. The name of the maker and supporter of the motion shall be recorded and the reasoning or rationale for the decision shall be clearly stated in the motion.

C. Voting

An affirmative vote of the majority of those Commission members present for the conduct of business shall be required for the approval of any requested action or motion placed before the Commission. Voting shall ordinarily be by voice vote; provided, however, that a roll call vote may be required if requested by any Commission member or directed by the Chairperson. All members of the Commission, including the Chairperson, except where it has been determined that the member has a conflict of interest, shall vote on all matters, but the Chairperson shall vote last. A member shall be excused from participating and voting if

that person has been determined to have a conflict of interest pursuant to IV, C hereof. No member shall abstain from voting unless it has been determined that he has a conflict of interest.

D. Rules of Order

All meetings of the Commission shall be conducted in accordance with generally accepted parliamentary procedures as governed by *Robert's Rules of Order*.

E. Minutes or Record of Meeting

The Secretary of the Commission shall maintain or keep minutes or a record of its proceedings and copies of the minutes or record shall be filed in the office of the Township Clerk, and they shall be a public record. The minutes shall contain a brief synopsis of the meeting, including a complete statement of all motions and recording of votes; a complete statement of the decision or recommendation, including any conditions thereto, made on any action taken by the Commission; and a recording of attendance. All correspondence and another communications, any written resolutions, decisions or other documentation of action taken, any exhibits submitted at hearings shall be attached to the minutes or other record of the proceedings.

VI. OPEN MEETINGS AND FREEDOM OF INFORMATION PROVISIONS.

A. Open Meetings Act

1. All meetings of the Commission shall be open to the public and held in a place available to the general public.
2. All deliberations and decisions of the Commission shall be made at a meeting open to the public. In other words, there shall be no closed sessions of the Commission.
3. A person shall be permitted to address a hearing of the Commission under the rules established in Subsection IV, D, and to address the Commission concerning non-hearing matters under the rules established in Subsection V, A, to the extent that they are applicable.
4. A person shall not be excluded from a meeting of the Commission except for a breach of the peace committed at the meeting.

B. Freedom of Information Act

All records, files, publications, correspondences and other materials are available to the public for reading, copying, and other purposes as governed by the Freedom of Information Act.

VII. AMENDMENTS.

These Bylaws and Rules of Procedure may be amended by the Commission by a concurring vote of the majority of those Commission members present for the conduct of business during any regular or special meeting, provided that all members have received in advance a copy of the proposed amendments at least three (3) days prior to the meeting at which such amendments are to be considered.

VIII PLANNING COMMISSION APPROVAL.

Planning Commission Approval. These Bylaws and Rules of Procedure and any amendments shall be approved by the Planning Commission.

Motion to Adopt

Motion by _____ and supported by _____
to adopt the foregoing Bylaws and Rules of Procedure of the Planning
Commission.

Votes: Ayes
 Nays
 Absent

Bylaws and Rules of Procedure adopted _____