

Bylaws for the Backus Township Planning Commission

The following rules of procedure are hereby adopted by the Backus Township Planning Commission to facilitate the performance of its duties as outlined in the Michigan Planning Enabling Act, Public Act 33 of 2008, MCL 125.3801, *et seq.*, and the Michigan Zoning Enabling Act, Public Act 110 of 2006, MCL 125.3101, *et seq.*

SECTION 1: Officers

- A. Selection and Tenure**—At the first regular meeting each May, the planning commission shall select from its membership a chairperson, secretary, vice chairperson. All officers shall be eligible for re-election for consecutive terms (**Alternatives:** *every other year / two consecutive terms / etc.*) for the same office.
- B. Chairperson**—The chairperson shall preside at all meetings, appoint committees and perform such other duties as may be ordered by the planning commission.
- C. (Optional) Vice Chairperson**—The vice chairperson shall act in the capacity of the chairperson in his/her absence. In the event the office of chairperson becomes vacant, the vice chairperson shall succeed to this office for the unexpired term, and the planning commission shall select a successor to the office of vice chairperson for the unexpired term.
- D. Secretary**—The secretary shall execute documents in the name of the planning commission and shall perform such other duties as the planning commission may determine.
- Minutes**—*The secretary shall be responsible for maintaining a permanent record of the minutes of each meeting and shall have them recorded in suitable permanent records maintained by the township clerk. The minutes shall contain a brief synopsis of the meeting, including a complete restatement of all motions and record of votes, conditions or recommendations made on any action and record of attendance.*
 - Correspondence**—*The secretary shall be responsible for issuing formal written correspondence with other groups or persons, as directed by the planning commission. All communications, petitions, reports or other written materials received by the secretary shall be brought to the attention of the planning commission.*
 - Attendance**—*The secretary shall be responsible for maintaining an attendance record for each planning commission member and report those records annually to the planning commission for inclusion in the annual report to the township board.*
 - Notices**—*The secretary shall oversee the issuance of such notices as may be required by the planning commission, including Open Meetings Act notices, as well as notice required for specific planning or zoning actions under the Michigan Planning Enabling Act or the Michigan Zoning Enabling Act.)*

SECTION 2: Meetings

The business the planning commission may perform shall be conducted at a public meeting held in compliance with the Open Meetings Act. The planning commission may establish reasonable rules and regulations in order to minimize the possibility of disrupting the meeting.

- A. Regular Meetings**—The planning commission shall hold not less than four regular meetings each year and by resolution shall determine the time and place of such meetings. Other meetings may be held as necessary. When a regular meeting falls on a legal holiday or upon a day resulting in a conflict, the planning commission shall, if possible, select a suitable alternate meeting date in the same month as the originally scheduled meeting.

Notice of regular planning commission meetings shall be posted at the principal township office within 10 days after the planning commission's first meeting in each fiscal (**OR** "calendar") year in accordance with the Open Meetings Act.

- B. Special Meetings**—Special meetings may be called by the chairperson or upon written request to the secretary by at least two members of the planning commission.

Notice of special meetings shall be given to the members of the planning commission at least 48 hours prior to the meeting. Such notice shall state the purpose, time and location of the special meeting and shall be posted in accordance with the Open Meetings Act.

- C. Notice**—Notice required for specific planning, zoning or other land use actions will be given in accordance with the Michigan Planning Enabling Act, the Michigan Zoning Enabling Act, Land Division Act, or other applicable statute.

- D. Public Hearings**—All public hearings held by the planning commission must be held as part of a regular or special meeting of the planning commission.

- E. Agenda**—The chairperson shall be responsible for preparing a tentative agenda for planning commission meetings. The agenda may be modified by action of the commission.

- F. Quorum**—Three members of a five member planning commission shall constitute a quorum for transacting business and taking official action for all matters. No official action of the commission may be taken without a quorum present.

- G. Voting**—An affirmative vote of the majority of the members of the planning commission is required to approve any part of the master plan or amendments to the plan or to amend these bylaws. Unless otherwise required by statute, other actions or motions placed before the planning commission may be adopted by a majority vote of the members present and voting, as long as a quorum is present. Voting shall be by voice vote; a roll call vote shall be required if requested by any commission member or directed by the chairperson. Except in the case of conflict of interest, all planning commission members, including the chairperson and ex officio member, shall vote on all matters.

- H. Public Records**—All meetings, minutes, records, documents, correspondence and other materials of the planning commission shall be open to public inspection in accordance with the Freedom of Information Act, except as may otherwise be provided by law.

SECTION 3: Duties of the Planning Commission

The planning commission shall perform the following duties:

- A.** Prepare, review and update a master plan as a guide for development within the township's planning jurisdiction.
- B.** Take such action on petitions, staff proposals and township board requests for amendments to the zoning ordinance as required.
- C.** Take such action on petitions, staff proposals and township board requests for amendments to the master land use plan as required.
- D.** Prepare an annual written report to the township board of the planning commission's operations and the status of planning activities, including recommendations regarding actions by the

township board related to planning and development. *(The bylaws may specify the minimum elements of the annual report required by the township board.)*

- E. Take such actions as authorized or required by the Michigan Planning Enabling Act.
- F. Take such actions as authorized or required by the Michigan Zoning Enabling Act.
- G. Review subdivision proposals and recommend appropriate actions to the township board.
- H. Prepare a capital improvements program *(if not exempted from preparing a capital improvements program by township board resolution)*.
- I. Perform other duties and responsibilities or respond as requested by any township board or commission.

SECTION 4: Absences, Removals, Resignations and Vacancies

- A. To be excused, members of the planning commission shall notify the planning commission chairperson or other planning commission member when they intend to be absent from a meeting. Failure to make this notification prior to the meeting shall result in an unexcused absence.
- B. Members may be removed by the township board for misfeasance, malfeasance or nonfeasance in office upon written charges and after a public hearing.
- C. A member may resign from the planning commission by sending a letter of resignation to the township board.
- D. Vacancies shall be filled by the township supervisor, with the approval of the township board. Successors shall serve out the unexpired term of the member being replaced.

SECTION 5: Conflict of Interest

Before casting a vote on a matter on which a planning commission member may reasonably be considered to have a conflict of interest, the member shall disclose the potential conflict of interest to the planning commission. Failure of a member to disclose a potential conflict of interest as required by these bylaws constitutes malfeasance in office.

(NOTE: The MPEA requires conflict of interest to be defined by either the township board by ordinance or the planning commission in its bylaws (MCL 125.3815(9)): "Unless the legislative body, by ordinance, defines conflict of interest for the purposes of this subsection, the planning commission shall do so in its bylaws." So a definition of conflict of interest is required, but it is optional whether it is done by ordinance or in the planning commission bylaws.

If the township board defines conflict of interest by ordinance, then that definition may be changed only if the township board amends the ordinance by a vote of the majority of the township board. If conflict of interest is defined in the planning commission bylaws, that definition may be changed by the planning commission amending its bylaws by simple majority vote. Bylaws are easier to change, so it is a more flexible approach, allowing the planning commission to adjust its conflict of interest definition, if needed. On the other hand, it is more difficult to change a conflict of interest definition in an ordinance, which may be viewed as providing less flexibility, or as a more stable approach.

This also raises the question of which body is more suited to define conflict of interest—and the answer may vary from township to township. Ideally, the township board and planning commission should work together and should consult the local legal counsel and planning consultants involved in the township's planning and zoning program to adopt a definition of conflict of interest.

The following sample definition of conflict of interest language may be adapted by an individual township and could be included in either the planning commission ordinance or the planning commission bylaws.)

Conflict of interest is defined as, and a planning commission member shall declare a conflict of interest and abstain from participating in planning commission deliberations and voting on a request, when:

1. An immediate family member is involved in any request for which the planning commission is asked to make a decision. "Immediate family member" is defined as (see note below).
(NOTE: There are definitions of "family member" and "immediate family member" in several statutes, or the township could develop its own definition of family member for the purposes of defining conflict of interest. Whatever the township decides, it should be done in consultation with the township's legal counsel, and the definition should be included in the ordinance or bylaws language.
Here are examples of some possible definitions that could be adopted or amended for the township's use, or the township may adopt another definition:
MCL 211.28: *A spouse, mother, father, sister, brother, son, or daughter, including an adopted child.*
MCL 168.2: *An individual's father, mother, son, daughter, brother, sister, and spouse and a relative of any degree residing in the same household as that individual.*
Example of a very restrictive approach: *The planning commission member's spouse, the member and member's spouse's children (including adopted) and their spouses, step-children and their spouses, grandchildren and their spouses, parents and step-parents, brothers and sisters and their spouses, grandparents, parents in-law, grandparents in-law, or any person residing in the planning commission member's household.)*
2. The planning commission 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.
3. The planning commission 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 application or proposed development, as required by the zoning ordinance or other applicable ordinance." Another, less encompassing definition could be: "For the purposes of this section, a neighboring property shall include any property immediately adjoining the property involved in the request."
4. There is a reasonable appearance of a conflict of interest, as determined by a majority vote of the remaining members of the planning commission.

SECTION 6: Amendments

These bylaws may be amended at any meeting by a vote of the majority of the membership of the planning commission.

Now, Therefore, the Planning Commission resolves to adopt Bylaws for the Backus Township Planning Commission.

Planning Commission Officials	Yeas	Nays	Absent
Dan Bowles, Chairman	(✓)	()	()
Karen Huff, Secretary	(✓)	()	()
Bob Rase, Member	(✓)	()	()
Harold Weiss, Member	(✓)	()	()
Don Collins, Member	(✓)	()	()

I, Karen Huff, Planning Commission Secretary do hereby certify that the foregoing is a true and original copy of the bylaws adopted by the Backus Township Planning Commission on May 14, 2013

Signature Karen P. Huff

Date May 14, 2013