

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES, CITY OF BRIGHTON, MICHIGAN, BY DELETING SECTIONS 2-176 THROUGH 2-183 OF CHAPTER 2, ARTICLE III, DIVISION 2 OF THE CODE, AND ADDING NEW SECTIONS 2-176 THROUGH 2-185 OF CHAPTER 2, ARTICLE III, DIVISION 2 OF THE CODE, AND DELETING SECTIONS 2-198 THROUGH 2-199, 2-201, AND 2-203 THROUGH 2-204 OF CHAPTER 2, ARTICLE III, DIVISION 3 OF THE CODE, AND ADDING NEW SECTIONS 2-198 THROUGH 2-199, 2-201, AND 2-203 THROUGH 2-206 OF CHAPTER 2, ARTICLE III, DIVISION 3 OF THE CODE.

THE CITY OF BRIGHTON, LIVINGSTON COUNTY, HEREBY ORDAINS:

I. Sections 2-176 through 2-183 of Chapter 2, Article III, Division 2 of the code, and Sections 2-198 through 2-199, 2-201, and 2-203 through 2-204 of Chapter 2, Article III, Division 3 of the Code are hereby deleted.

II. New Sections 2-176 through 2-185 of Chapter 2, Article III, Division 2 of the code, and Sections 2-198 through 2-199, 2-201, and 2-203 through 2-206 of Chapter 2, Article III, Division 3 of the Code are hereby added as follows:

**Sec. 2-176. Established.**

The city planning commission is established pursuant to the provisions of Act No. 33 of the Public Acts of Michigan of 2008 (MCL 125.3801 et seq.), as amended, and terms used herein shall be defined as set forth in that act. It shall be known as the city planning commission.

**Sec. 2-177. Membership.**

- (a) The Mayor shall appoint members of the planning commission, subject to approval by a majority vote of the members of city council elected and serving. The city manager or a person designated by the city manager, the mayor, one or more members of city council, or any combination thereof, may be appointed to the planning commission, as ex officio members. Not more than 1/3 of the members of the planning commission may be ex officio members. Except as provided in this subsection, an elected officer or employee of the local unit of government is not eligible to be a member of the planning commission. The term of an ex officio member of a planning commission shall be as follows:
- a. The term of a chief elected official shall correspond to his or her term as chief elected official.
  - b. The term of a chief administrative official shall expire with the term of the chief elected official that appointed him or her as chief administrative official.
  - c. The term of a member of the legislative body shall expire with his or her term on the legislative body.
- (b) The planning commission shall consist of nine members. Members of the planning commission other than ex officio members shall be appointed for 3-year terms. However, of the members of the planning commission, other than ex officio member, first appointed, a number shall be appointed to 1-year or 2-year terms such that, as nearly as

possible, the terms of 1/3 of all the planning commission members will expire each year. If a vacancy occurs on a planning commission, the vacancy shall be filled for the unexpired term in the same manner as provided for an original appointment. A member shall hold office until his or her successor is appointed.

- (c) The membership of the planning commission shall be representative of important segments of the community, such as the economic, governmental, educational, and social development of the city, in accordance with the major interests as they exist in the city, such as agriculture, natural resources, recreation, education, public health, government, transportation, industry, and commerce. The membership shall also be representative of the entire geography of the local unit of government to the extent practicable.
- (d) Members of a planning commission shall be qualified electors of the local unit of government, except that the one member of planning commission may be an individual who is not a qualified elector of the local unit of government.

**Sec. 2-178. Removal of member.**

The city council may remove a member of the planning commission for misfeasance, malfeasance, or nonfeasance in office upon written charges and after a public hearing. Before casting a vote on a matter on which a member may reasonably be considered to have a conflict of interest, the member shall disclose the potential conflict of interest to the planning commission. The member is disqualified from voting on the matter if so provided by the bylaws or by a majority vote of the remaining members of the planning commission. Failure of a member to disclose a potential conflict of interest as required by this subsection constitutes malfeasance in office.

**Sec. 2-179. Meetings and records.**

- (a) The planning commission shall elect a chairperson and secretary from its members and create and fill other offices as it considers advisable. An ex officio member of the planning commission is not eligible to serve as chairperson. The term of each officer shall be 1 year, with opportunity for reelection as specified in the adopted bylaws.
- (b) The planning commission may appoint advisory committees whose members are not members of the planning commission.
- (c) The planning commission shall adopt bylaws for the transaction of business, and shall keep a public record of its resolutions, transactions, findings, and determinations.
- (d) The planning commission shall make an annual written report to the legislative body concerning its operations and the status of planning activities, including recommendations regarding actions by the legislative body related to planning and development.
- (e) The planning commission shall hold not less than 4 regular meetings each year, and by resolution shall determine the time and place of the meetings. Unless the bylaws provide otherwise, a special meeting of the planning commission may be called by the chairperson or by 2 other members, upon written request to the secretary. Unless the bylaws provide otherwise, the secretary shall send written notice of a special meeting to planning commission members not less than 48 hours before the meeting.

- (f) The business that a planning commission may perform shall be conducted at a public meeting of the planning commission held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275, as amended. Public notice of the time, date, and place of a regular or special meeting shall be given in the manner required by that act.
- (g) A writing prepared, owned, used, in the possession of, or retained by a planning commission in the performance of an official function shall be made available to the public in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, as amended.

**Sec. 2-180. Contracts for services.**

- (a) The City may employ a planning director and other personnel as it considers necessary, contract for the services of planning and other technicians, and incur other expenses, within a budget authorized by city council. This authority shall be exercised by city council. The appointment of employees is subject to the same provisions of law as govern other corresponding civil employees of the City.
- (b) The planning commission may make use of maps, data, and other information and expert advice provided by appropriate federal, state, regional, county, and municipal officials, departments, and agencies. All public officials, departments, and agencies shall make available public information for the use of planning commissions and furnish such other technical assistance and advice as they may have for planning purposes.

**Sec. 2-181. Powers, duties and responsibilities.**

The city planning commission shall have such powers concerning the preparation and adoption of a master plan or any part thereof, including land use surveys, land use plans, provision for the healthful and convenient distribution of the economic and population surveys, capital improvements programs, revenue studies, major street plans, utilities plans, subdivision regulations, a zoning ordinance, traffic surveys, the carrying out of educational and publicity programs, the approval of plats and such other rights, powers, duties, and responsibilities as are provided in sections 7 and 81 of Act No. 33 of the Public Acts of Michigan of 2008 (MCL 125.3801 et seq.), as amended.

**Sec. 2-182. Gifts.**

The planning commission may accept gifts for the exercise of its functions. A gift of money so accepted in either case shall be deposited with the City treasurer in a special nonreverting planning commission fund for expenditure by the planning commission for the purpose designated by the donor. The City treasurer shall draw a warrant against the special nonreverting fund only upon receipt of a voucher signed by the chairperson and secretary of the planning commission and an order drawn by the City clerk. The expenditures of a planning commission, exclusive of gifts and grants, shall be within the amounts appropriated by the city council.

### **Sec. 2-183. Reports and recommendations.**

The city planning commission shall make reports and recommendations to the city council. No such recommendations shall be binding upon the city council, except as provided by Act No. 33 of the Public Acts of Michigan of 2008 (MCL 125.3801 et seq.), as amended.

### **Sec. 2-184. Compensation.**

Members of a planning commission may be compensated for their services as provided by the city council. A planning commission may adopt bylaws relative to compensation and expenses of its members and employees for travel when engaged in the performance of activities authorized by the legislative body, including, but not limited to, attendance at conferences, workshops, educational and training programs, and meetings.

### **Sec. 2-185. Preparation of Budget**

After preparing the annual report required under Sec. 2-180 (d), the planning commission may prepare a detailed budget and submit the budget to city council for approval or disapproval. City Council annually may appropriate funds for carrying out the purposes and functions permitted under this act, and may match local government funds with federal, state, county, or other local government or private grants, contributions, or endowments.

### **Sec. 2-198. Members and term of office.**

- (a) The city council shall make appointments to the board of appeals pursuant to this division, the city Charter and state law. The board of appeals shall consist of seven persons who shall serve three-year terms. One of the regular members of the zoning board of appeals may be a member of the planning commission. The remaining regular members, and any alternate members, shall be selected from the electors of the City of Brighton. The members selected shall be representative of the population distribution and of the various interests present in the local unit of government. One regular or alternate member may be a member of the city council but such member shall not serve as chairperson of the zoning board of appeals. An employee or contractor of the City of Brighton may not serve as a member of the zoning board of appeals.
- (b) The terms of office for members appointed to the zoning board of appeals shall be for 3 years, except for members serving because of their membership on the planning commission or city council, whose terms shall be limited to the time they are members of those bodies. When members are first appointed, the appointments may be for less than 3 years to provide for staggered terms. A successor shall be appointed not more than 1 month after the term of the preceding member has expired. Vacancies for unexpired terms shall be filled for the remainder of the term, in the same manner as the original appointment.
- (c) The city council may appoint not more than 2 alternate members for the same term as regular members. An alternate member may be called as specified to serve as a member of the zoning board of appeals in the absence of a regular member if the regular member will be unable to attend one or more meetings. An alternate member may also be called to serve as a member for the purpose of reaching a decision on a case in which the member has abstained for reasons of conflict of interest. The alternate member appointed shall

serve in the case until a final decision is made. The alternate member has the same voting rights as a regular member.

**Sec. 2-199. Powers and duties regulating zoning.**

The zoning board of appeals shall hear and decide questions that arise in the administration of the zoning ordinance, including the interpretation of the zoning maps, and may adopt rules to govern its procedures sitting as a zoning board of appeals. The zoning board of appeals shall also hear and decide on matters referred to the zoning board of appeals or upon which the zoning board of appeals is required to pass under a zoning ordinance adopted under this act. It shall hear and decide appeals from and review any administrative order, requirement, decision, or determination made by an administrative official or body charged with enforcement of a zoning ordinance adopted under this act. For special land use and planned unit development decisions, an appeal may be taken to the zoning board of appeals only if provided for in the zoning ordinance. The concurring vote of a majority of the members of the zoning board of appeals is necessary to reverse an order, requirement, decision, or determination of the administrative official or body, to decide in favor of the applicant on a matter upon which the zoning board of appeals is required to pass under the zoning ordinance, or to grant a variance in the zoning ordinance.

**Sec. 2-201. Officers of the board.**

The board of appeals shall annually in October elect a chairman and a vice-chairman from among its members. The city manager, city clerk, city attorney, or their appointee, shall be the secretary of the board and shall keep written record of the proceedings of the board, which shall be filed in the office of the City clerk.

**Sec. 2-203. Rules of procedure.**

- (a) The board of appeals shall be governed by Roberts Rules of Order, latest edition, and may adopt such rules and regulations as it deems necessary for the orderly conduct of business. Filing fees for the hearing of appeals will be established to adequately cover the costs incurred in conducting investigation, notification, and disposition of cases; such fees shall be approved by the city council.
- (b) An appeal to the zoning board of appeals may be taken by a person aggrieved or by an officer, department, board, or bureau of the state of Michigan or the City. In addition, a variance in the zoning ordinance may be applied for and granted under section 4 of the uniform condemnation procedures act, 1980 PA 87, [MCL 213.54](#), and as provided under this act. The zoning board of appeals shall state the grounds of any determination made by the board.
- (c) An appeal under this ordinance shall be taken within such time as prescribed by the zoning board of appeals by general rule, by filing with the body or officer from whom the appeal is taken and with the zoning board of appeals a notice of appeal specifying the grounds for the appeal. The body or officer from whom the appeal is taken shall immediately transmit to the zoning board of appeals all of the papers constituting the record upon which the action appealed from was taken.
- (d) An appeal to the zoning board of appeals stays all proceedings in furtherance of the action appealed. However, if the body or officer from whom the appeal is taken certifies

- to the zoning board of appeals after the notice of appeal is filed that, by reason of facts stated in the certificate, a stay would in the opinion of the body or officer cause imminent peril to life or property, proceedings may be stayed only by a restraining order issued by the zoning board of appeals or a circuit court.
- (e) Following receipt of a written request for a variance, the zoning board of appeals shall fix a reasonable time for the hearing of the request and give notice as provided in MCL 125.3103.
  - (f) If the zoning board of appeals receives a written request seeking an interpretation of the zoning ordinance or an appeal of an administrative decision, the zoning board of appeals shall conduct a public hearing on the request. Notice shall be given as required under MCL 125.3103. However, if the request does not involve a specific parcel of property, notice need only be published as provided in MCL 125.3103 and given to the person making the request as provided in MCL 125.3103.
  - (g) At a hearing under subsection (f), a party may appear personally or by agent or attorney. The zoning board of appeals may reverse or affirm, wholly or partly, or modify the order, requirement, decision, or determination and may issue or direct the issuance of a permit.
  - (h) If there are practical difficulties for nonuse variances as provided in subsection (i) or unnecessary hardship for use variances as provided in subsection (j) in the way of carrying out the strict letter of the zoning ordinance, the zoning board of appeals may grant a variance in accordance with this section, so that the spirit of the zoning ordinance is observed, public safety secured, and substantial justice done. The ordinance shall establish procedures for the review and standards for approval of all types of variances. The zoning board of appeals may impose conditions as otherwise allowed under this act.
  - (i) The zoning board of appeals shall have the authority to grant nonuse variances relating to the construction, structural changes, or alteration of buildings or structures related to dimensional requirements of the zoning ordinance or to any other nonuse-related standard in the ordinance.

**Sec. 2-204. Action of the board.**

A zoning board of appeals shall not conduct business unless a majority of the regular members of the zoning board of appeals are present. The concurring vote of two-thirds of the members of the board shall be necessary to grant any variance to the regulations provided in chapter 98. The presence of at least the majority of the board and an affirmative vote of a majority of those present at any meeting shall be required for any other board decision or action to include any reversal of any order, requirement, decision, or determination of the enforcing officer in regards to zoning, housing, or sign appeals. A recommendation from the city planning commission, city attorney, or any other member of the city staff may be required, requested, or otherwise received on certain matters to come before the board of appeals.

**Sec. 2-205. Compensation.**

A member of the zoning board of appeals may be paid a reasonable per diem and reimbursed for expenses actually incurred in the discharge of his or her duties.

**Sec. 2-206. Removal of member.**

A member of the zoning board of appeals may be removed by the legislative body for misfeasance, malfeasance, or nonfeasance in office upon written charges and after public hearing. A member shall disqualify himself or herself from a vote in which the member has a conflict of interest. Failure of a member to disqualify himself or herself from a vote in which the member has a conflict of interest constitutes malfeasance in office.

III. This Ordinance shall be in full force and effect fifteen (15) days from the adoption as provided by the Brighton City Charter.

Diana Lowe, City Clerk