

**CHARTER TOWNSHIP OF OXFORD
PLANNING COMMISSION REGULAR MEETING**

NOTICE AND AGENDA

Date: Thursday, June 22, 2023

Time: 7:00 p.m.

Place: Oxford Township Meeting Room, 300 Dunlap Road, Oxford, MI 48371

1. Call to order
2. Respects to the flag
3. Noting of roll
4. Approval of the agenda
5. Conflicts of Interest/Ex-Parte Contact
6. Approval of Minutes – Planning Commission Regular Meeting – 05/25/2023
7. Public comment on items not scheduled for Public Hearing or on this agenda.
8. Commissioners' Comments
9. Public Hearing
10. Unfinished Business
11. New Business
 - A. PC Training – Workshop
 - B. Discussion of Zoning Ordinance Article 10.1 - Noise
12. Communications and/or Committee Reports
 - A. Economic Development Committee
 - B. Ordinance Review Committee
13. Planner/Engineer Reports
 - A. Carlisle|Wortman
 - B. Sharpe Engineering
14. Adjournment

The Charter Township of Oxford will provide necessary reasonable auxiliary aids and services, such as signers for the hearing impaired and audio tapes of printed materials being considered at the meeting/hearing. Individuals with disabilities requiring auxiliary aids or services shall contact the Charter Township of Oxford, by writing or calling Curtis W. Wright, Township Clerk at 248-628-9787, ext. 108 as soon as possible to allow the Township sufficient time to have available the aids and services.

Thomas Berger, Chairman
Planning Commission
Charter Township of Oxford
300 Dunlap Road
Oxford, MI 48371
(248) 628-9787

CHARTER TOWNSHIP OF OXFORD PLANNING COMMISSION REGULAR MEETING
THURSDAY, MAY 25, 2023

A regular meeting of the Charter Township of Oxford Planning Commission was held Thursday, May 25, 2023 at the Oxford Township Meeting Room, 300 Dunlap Road, Oxford, Michigan 48371.

The meeting was called to order by Chairman Berger at 7:00 p.m.

RESPECTS TO THE FLAG

ROLL CALL

Members Present: **Jon Nold, Korey Bailey, Justin Ballard, Robert Turner, Ed Hunwick, Tom Berger**

Members Absent: Michael Spisz

Also Present: Township Planner Megan Masson-Minock, Building & Zoning Coordinator Cheryl Lotan, Recording Secretary Susan McCullough, one OCTV camera operator, the applicant and 2 residents.

APPROVAL OF AGENDA

Commissioner Nold moved, Commissioner Ballard seconded, to approve the Charter Township of Oxford regular Planning Commission agenda for Thursday, May 25, 2023 as presented.

Ayes: 6 Nays: 0 Absent: 1

Motion Carried.

CONFLICTS OF INTEREST/EX-PARTE CONTACT

APPROVAL OF THE MINUTES

Planning Commission Regular Meeting – May 11, 2023

Commissioner Hunwick moved, Commissioner Bailey seconded, to approve the regular Planning Commission meeting minutes for May 11, 2023 as presented.

Ayes: 6 Nays: 0 Absent: 1

Motion Carried.

PUBLIC COMMENTS ON ITEMS NOT SCHEDULED FOR PUBLIC HEARING OR ON THE AGENDA

Public comment began at 7:03 p.m.

There being no public comment on non-agenda items, public comment ended at 7:03 p.m.

COMMISSIONERS' COMMENTS

None.

PUBLIC HEARING(S)

None.

UNFINISHED BUSINESS

PC 23-002 Zoning Ordinance Map Amendment (Rezoning)

The applicant is requesting a zoning map amendment (rezoning) for a portion of parcel 04-30-200-058, known as Seymour Lake Park. The portion proposed for rezoning from Recreation (R) to Single-Family (1-acre) is 1.138 acres (gross) or 0.97 acres (net) of the ~24.4-acre parcel.

The property is located at 510 S. Coats Road, on the west side of S. Coats Road, south of Seymour Lake Road.

Phil Castonia, Director, Oxford Township Parks and Recreation, 2795 Seymour Lake Road, Oxford, MI 48371 was available to answer any questions of the Commission.

Township Planner Masson-Minock was available to answer any questions of the Commission regarding the application and review letter dated March 8, 2023.

Commissioner Nold moved, Commissioner Hunwick seconded, to recommend denial to the Oxford Township Board of Trustees for a rezoning from R (Recreation) to R-3 (Single Family Residential) of 1.138 acres of parcel number 04-30-200-08 as depicted on the survey submitted by the owner of the Property, based upon a finding that the Applicant does not meet all factors relevant to the petition pursuant to Sec. 18.3 of the Township Zoning Ordinance.

Roll call:

Ayes: Bailey, Hunwick, Nold, Ballard, Turner, Berger

Nays: None

Absent: Spisz

Motion Carried.

NEW BUSINESS

None.

COMMUNICATIONS AND/OR COMMITTEE REPORTS

Economic Development Committee

None.

Ordinance Review Committee

The committee met on May 18, 2023. Planner Masson-Minock provided a brief update regarding ongoing projects of the ORC.

PLANNER/ENGINEER REPORTS

Planner – Carlisle/Wortman

Planner Masson-Minock provided a brief update regarding ongoing and upcoming projects.

Engineer – Sharpe Engineering

None.

CHARTER TOWNSHIP OF OXFORD PLANNING COMMISSION REGULAR MEETING
THURSDAY, MAY 25, 2023

ADJOURNMENT

Chairman Berger adjourned the meeting at 7:53 p.m.

Tom Berger, Chairman

Ed Hunwick, Secretary

Date approved: _____
smm

Unofficial



THE
KELLY
FIRM

MEETING DECORUM

PUBLIC HEARINGS, MOTIONS, EX PARTE
CONTACT, THE OMA, AND MORE!



Why Does Procedure Matter at a Public Meeting?



Tips For a Successful Public Meeting

The Chair controls the flow of the meeting, including announcing business to come before the Board and recognizing members entitled to the floor.

The Board should be familiar with and follow your Bylaws. When in doubt, follow Robert's Rules of Order.

Always maintain control and decorum. Usually this is the responsibility of the Chair, but all members should assist.

Follow appropriate procedures for passage of motions and amendments to motions. Ensure intent is clear in language of motions.

Board members should refrain from commenting during public comment, avoid back and forth.

Any Board or chair response should be after public comment is closed.

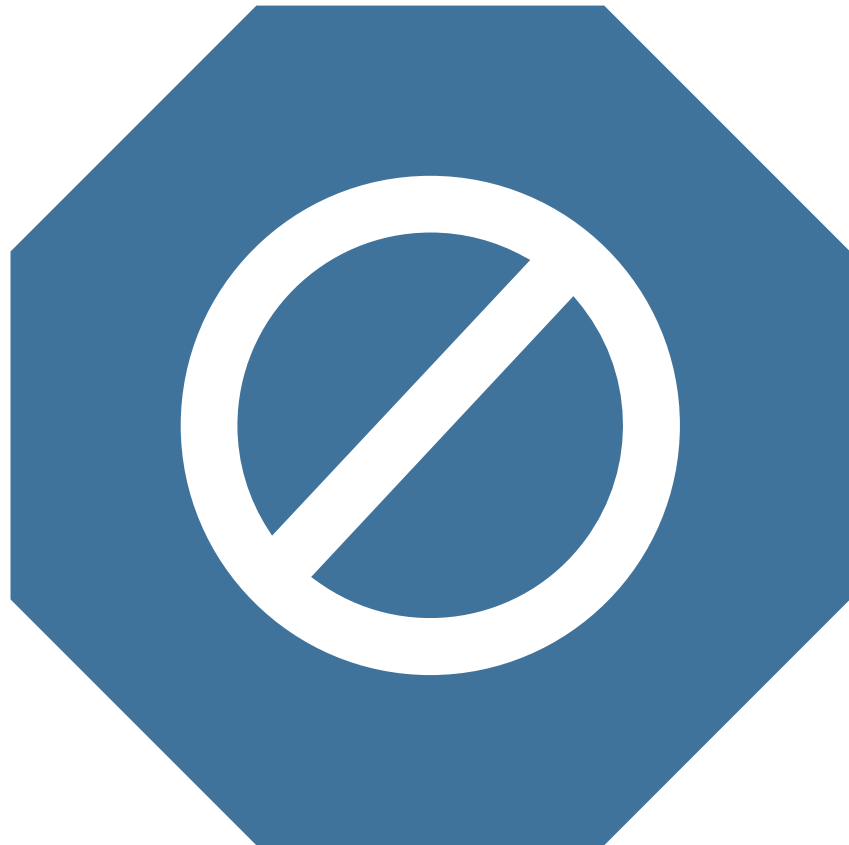


OAG Opinions on Public Comment Rules

Issues Boards and Commissions can address by Bylaws:

- Length of time that members of the public may address the Board.
- Designation of the time for public participation during a certain part of the agenda.
- The OMA prohibits a public body from placing conditions on the attendance of members of the public at an open meeting. The right of a person to address a public body may, however, be reasonably controlled by rules recorded by the public body. It is reasonable to require a person to identify himself for purposes of public comment.

OAG Opinion 1977-78 5183



The Board May Not...

- Limit the subject or issues that the speaker wants to address.
- Require exhaustion of administrative procedures before allowing a person to speak.
- Prevent a person from talking about a confidential or closed session topic.
- Require as a condition of attendance that a person register and/or provide his or her name as a condition to attending a meeting.

Public Hearing Vs. Public Comment

PUBLIC HEARING

PUBLIC COMMENT

- Formal meeting to gather input, information, and opinions from the public regarding a specific matter or proposal.
- Required by law for certain types of land use decisions, such as zoning changes, development plans, or special permits.
- During a public hearing, the Planning Commission members listen to presentations from the applicant or their representatives and allow members of the public to provide testimony or express their views on the matter at hand.
- The Planning Commission considers the input received during the public hearing when making their decision.

- The public has no right to address the commission during its deliberations on a particular matter outside of the public comment period.
- Discretion under the OMA when to schedule public comment during the meeting.
- Public comment is a less formal opportunity for members of the public to express their opinions, concerns, or suggestions on any topic relevant to the Township Planning Commission's responsibilities.
- Not limited to a specific proposal or agenda item. They can occur during regular meetings of the Planning Commission or at designated times set aside specifically for public comment.

Procedure to Pass and Amend a Motion

To Pass a Motion:

- ❖ Board Members have the right to make motions during a meeting almost any time no other business is pending. The chair recognizes the member.
- ❖ The member states the motion.
- ❖ Another member seconds the motion.
- ❖ The members debate the motion.
- ❖ The chair restates the motion, and the members vote.
- ❖ The chair announces the result.

To Amend a Motion:

- ❖ Board member would make the following motion: “I move to amend the motion on the floor.” This also requires a second.
- ❖ After the motion to amend is seconded, a majority vote is needed to decide whether the amendment is accepted.
- ❖ A vote is taken on the amended motion.

What is Included in a Motion?



Motions that are passed in violation of the Township's adopted procedures are likely to be upheld by the Court but will be interpreted based upon the *intent* of the Board, based on the language included in the Motion.



Does not include Board discussion.



It only includes the language of the motion voted on.



The Open Meetings Act

1976 PA 267

Intent of the Act

“To strengthen the right of all Michigan citizens to know what goes on in government by requiring public bodies to conduct nearly all business at open meetings.”



A Meeting is Subject to the OMA if...

- A public body (including committee, subcommittee) meets with a quorum present.
- To deliberate towards or render a decision** on something on something on which a vote by the public body is required and by which a public body effectuates/formulates public policy.

**The OMA defines "decision" to mean "a determination, action, vote, or disposition upon a motion, proposal, recommendation, resolution, order, ordinance, bill, or measure on which a vote by members of a public body is required and by which a public body effectuates or formulates public policy." MCL 15.262(d).

The OMA & Ex Parte Contact

➤ "[a]ll decisions of a public body shall be made at a meeting open to the public," and that, with limited exceptions, "[a]ll deliberations of a public body constituting a quorum of its members shall take place at a meeting open to the public." MCL 15.263(2) and (3).

➤ Basic idea is that all members and all people that are interested enough to be at the meeting can hear all sides of an issue and can add to or respond to what has been said:

“Parties at the hearing before a governing body are entitled to an opportunity to be heard, to an opportunity to present and rebut evidence, to a tribunal which is impartial in the material, having had no prehearing or *ex parte* contacts concerning the question at issue”

– *Fasano v. Board of County Commissioners of Washington County*



Permissible Reasons to go Into Closed Session

A public body may meet in a closed session only for one or more of the following permitted purposes specified in section 8 of the OMA:

- (1) To consider the dismissal, suspension, or disciplining of, or to hear complaints or charges brought against, or to consider a periodic personnel evaluation of, a public officer, employee, or staff member, if the named person requests a closed hearing.
- (2) For strategy and negotiation sessions connected with the negotiation of a CBA if either negotiating party requests a closed hearing.
- (3) To consider the purchase or lease of real property up to the time an option to purchase or lease that real property is obtained.
- (4) To consult with its attorney regarding trial or settlement strategy in connection with specific pending litigation.
- (5) To review and consider the contents of an application for employment or appointment to a public office if the candidate requests that the application remain confidential.
- (6) To discuss a written legal opinion or memorandum with the Township Attorney or to consider material exempt from discussion or disclosure by State or Federal Statute.

Procedures to Go Into Closed Session

- A closed session must be conducted during the course of an open meeting.
- a public body may go into closed session upon a motion duly made, seconded, and adopted by a 2/3 roll call vote of the Board.
- The roll call vote and the purpose or purposes for calling the closed session shall be entered into the minutes of the meeting at which the vote is taken.
- Motion should be made to end the closed session with a majority vote needed for approval.
- When the Board has concluded its closed session, the open meeting minutes should state the time the public body reconvened in open session and any votes on matters discussed in the closed session must occur in an open meeting.

Use of e-mail or other electronic communications during an open meeting

Email, texting, or other forms of electronic communications among members of a board or commission during the course of an open meeting that constitutes deliberations toward decision-making or actual decisions violates the OMA, since it is in effect a "closed" session.

See *Esperance v Chesterfield Twp*, 89 Mich App 456, 464; 280 NW2d 559 (1979) and OAG, 1977-1978, No 5262, p 338 (January 31, 1978).



Questions?

Oxford Township Planning Commission Training

JUNE 22, 2023

AGENDA:

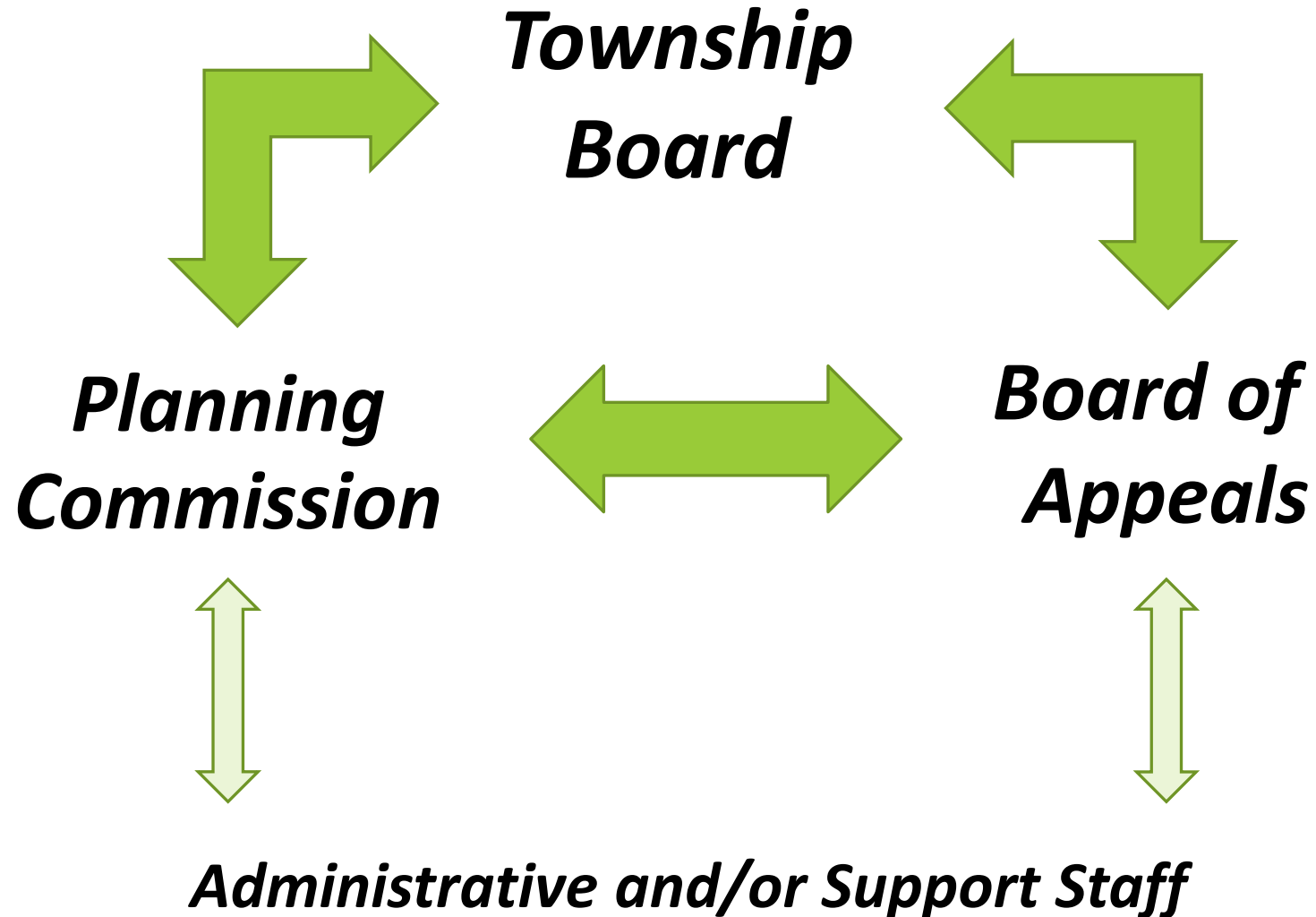
Roles/Responsibilities

Making Effective Decisions &
Findings

Risk Management

Roles & Responsibilities

LAND USE DECISIONS DO NOT OPERATE IN A VACUUM



LAND USE DECISIONS DO NOT OPERATE IN A VACUUM

Legislative Body

- Appointments
- Ordinance Adoption
- Site Plan/Zoning Reviews
- Budgets / Personnel
- Master Plan
- Other Policy Decisions

Planning Commission

- Master Plan
- Zoning Ordinance
- Site Plan/Zoning Reviews

Board of Appeals

- Variances
- Appeals
- Interpretations
- Other Duties

Administrative and/or Support Staff

Statutory Authority

Planning

Planning Enabling Act

Public Act 33 of 2008

(MCL 125.3801et seq)

Zoning

Zoning Enabling Act

Public Act 110 of 2006

(MCL 125.3101 et seq)

Statutory Authority

Additional Legal Constraints

- Federal Laws
- State Laws
- Case Law (Federal & State)
- Attorney General Opinions
- Other Local Ordinances

Approvals

Non-Discretionary

- a) Zoning Administration
- b) Site Plan

Discretionary

- a) Special Land Use
- b) Planned Unit Development
- c) Amendments



Questions

ROLES & RESPONSIBILITIES



Making Effective Decisions

AND FINDINGS

Elements of Effective Decisions



Expect complete
information



Be prepared



Conduct Orderly
Meetings



Deliberate
properly



Document
decisions

Preparation

- Conduct site visit
- Avoid “ex parte” contacts
- Review materials
 - Planner and other professional reports
 - Application and plans
 - Ordinance requirements
- Ask questions

General Meeting Rules

- Keep order
- Stay on subject
- Eliminate misunderstanding of outcomes
- Maintain fairness during deliberation

Deliberation Process

RULES FOR SPEAKERS

- Degree of formality
- Comments through the Chair
- Limit speaking time
- Limit number of times speaking
- Spokesperson

RULES FOR DECISION MAKERS

- Comments through the Chair
- Deliberate in the open
- Express opinions
- Use ordinance standards for decisions

Decisions and Motions

- A motion is a formal proposal by a member
- Types of motions include MAIN and SECONDARY
- Main motion brings subject to the floor and are amendable and debatable
- Secondary motion modifies a main motion and may be amenable and debatable
- Common secondary motions: Amendment and recess

Debate: Limits

- Chair must recognize speaker
- Limit time of speaking to give others time to contribute
- Cannot speak or carry on side conversation while another is speaking
- Common modifiers to speaking order
 - Maker of motion speaks first
 - No member permitted to speak twice until each member has the opportunity to speak

Debate: Protocol

- Stick to subject
- Debate issues and not personalities
- Use formal speech such as “Mr. Smith” and not “Joe” or “Madam Chair” and not “Betty”
- Motion to limit or extend limits on debate possible
- Motion to immediately close debate possible

Meeting Etiquette



FACE OF THE TOWNSHIP



RESPECT EACH OTHER
AND THE PUBLIC



TREAT ALL FAIRLY



KEEP ACTIONS SIMPLE
AND UNDERSTANDABLE

Delays

- Appropriate
 - Incomplete application
 - Extensive changes necessary to comply with ordinance standards
 - Applicant requests delay in writing
 - When necessary information from an agency or the applicant has not been received
- Not appropriate
 - When receipt of another agency permit can be handled as a condition
 - Minor changes to the plan are required which will not affect site layout and can be handled as a condition

Motions

- Phrase motions carefully to withstand scrutiny by a court
- Ensure everyone is clear on motion
- Reference relevant sections of ordinance and reports
- Conditions may be imposed on any zoning decision, except rezoning

Motion Musts

- Site plan name and number
- Date of plan (including revision dates)
- The result (approved, approved with conditions, denied, postponed)
- Findings supporting action(s) taken
- Any conditions (with timetables, if applicable)
- Who will verify conditions are met (if applicable)

Motion Dissection

Commissioner Nold moved,
Commissioner Bailey seconded, to
recommend denial to the Oxford Township Board of Trustees for a rezoning from C-1 (local commercial) to RM (multiple family) for parcel numbers 04-21-200-002 and 04-21-200-005 based upon a finding that the Applicant does not meet all factors relevant to the petition pursuant to Sec. 18.3 of the Township Zoning Ordinance.

→ *Decision*

→ *Approval Type*

→ *Property*

→ *Concluding Finding*

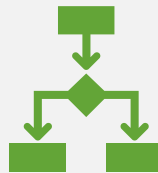
Rezoning Number?

CONDITIONS

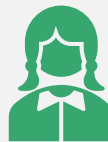
May be attached to any affirmative decision

Must be reasonable and bear a relationship to the review standards

General Zoning Principles



Decisions should be supported by evidence



Experts provide an invaluable service

General Zoning Principals



RIGHT TO CONTROL LAND IS
NOT ABSOLUTE



RIGHTS OF THE PUBLIC
WEIGHED WITH THE RIGHTS
OF INDIVIDUALS



ZONING ORDINANCE MUST
BE FAIR & REASONABLE

General Zoning Principles

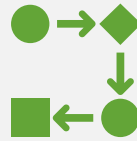


A good Master Plan is a good defense in zoning litigation.



Zoning ordinances should not exclude otherwise lawful uses, with exceptions

General Zoning Principles



Procedure matters



Require applicants seeking zoning relief to follow procedure



Deal with zoning issues in a prompt manner



Zoning decisions are made in open meeting



Do not express an opinion regarding a pending zoning decision until all the facts have been received in open meeting

General Zoning Principles



Questions

DECISIONS & FINDINGS

The background features a blurred image of a white pen writing on a document. A line graph is visible, showing a curve that rises and then falls. The number '5' is on the left side of the graph, and '2,47' is on the right side. The overall scene is in grayscale with a soft, out-of-focus effect.

Risk Management



Risk Management

- You CAN'T avoid litigation
- You CAN manage risk & liability exposure by:
 - Using consistent rules and procedures
 - Treating everyone fairly and consistently
 - Avoiding conflicts of interest
 - Keeping accurate and complete records

Risk Management: Conflict of Interest

Identification

- You are the applicant
- Relative
- Business associate
- Close ties
- If you have to ask...

Procedure

- State nature of conflict
- Request to abstain from discussion and voting
- Must be approved by the body
- Minutes should reflect abstention and reason

Risk Management

- Zoning must provide a reasonable use.
- The use need NOT be the most profitable.
- Support your decisions with findings based on review standards.
- Follow proper procedures.
- Case law: In state and federal courts is still emerging.

The background of the slide is a light-colored surface covered with numerous small, square wooden blocks. Each block has a question mark printed on its top face. The blocks are scattered across the entire area, creating a pattern of questions. The lighting is soft, and the overall tone is clean and professional.

Questions

RISK MANAGEMENT



Carlisle | Wortman
ASSOCIATES, INC.

117 NORTH FIRST STREET SUITE 70 ANN ARBOR, MI 48104 734.662.2200 734.662.1935 FAX

TO: Oxford Township Planning Commission
FROM: Megan Masson-Minock, AICP
DATE: June 13, 2023
RE: Zoning Ordinance Text Amendments for Noise Regulations in Section 10.1

The Ordinance Review Committee (ORC) drafted the attached Zoning Ordinance amendment to Section 10.1, per their 2023 Work Plan. The sound standards are proposed to be updated to allow for the decibel levels created by regular maintenance and emergency use of whole-house generators.

When reviewing the proposed amendments, please note that:

- Proposed text to be added is shown in red, underlined text: example
- Text proposed to be deleted is shown in red, strike through text: ~~example~~

The Zoning Ordinance text amendment adoption process is as follows:

- Public hearing by the Planning Commission
- Recommendation by the Planning Commission
- Two readings by the Township Board
- Township Board Adoption

We would like to discuss these proposed amendments at your June 22, 2023 meeting. Please do not hesitate to reach out if you have any questions.

Carlisle Wortman Associates, Inc.
Megan Masson-Minock, AICP
Principal

*Benjamin R. Carlisle, President Douglas J. Lewan, Executive Vice President John L. Enos, Vice President
David Scurto, Principal Sally M. Elmiger, Principal R. Donald Wortman, Principal
Paul Montagno, Principal, Megan Masson-Minock, Principal, Laura Kreps, Senior Associate
Richard K. Carlisle, Past President/Senior Principal*

ARTICLE 10
ENVIRONMENTAL PROVISIONS

10.1 Environmental Performance Regulations.

J. Noise.

1. No operation or activity shall cause or create noise that exceeds the sound levels prescribed below, using an A-weighted decibel scale dB(A), when measured at the lot line of any adjoining use, based upon the following maximum allowable levels for each use district:

Zoning of Adjoining Properties	Maximum Allowable Noise Level measured in dB (A)	
	7 am to 9 pm	9 pm to 7 am
R-1A, R-1, R-2, R-3, SF-1, SF-2, SF-3, MHP, RM, AG, R	60	50
O, C-1, C-2, PQP	70	60
I-1, I-2, RO	85	75

Noise level measurements for comparison with the above limits shall be made using A-Weighted fast response measurements, using the “Max-Hold” feature of a spectrum analyzer.

For the purposes of this sub-section J., the term “adjoining use” shall include properties directly across any private or public road from the use whose noise is being measured (in addition to those which actually abut the property line of the use).

2. Lawn Care Exemption. Noise created by the reasonable use of equipment for the purposes of lawn care shall be exempt from the regulations of this sub-section J. concerning the hours of 7:00 a.m. to 9:00 p.m.; such noise shall be subject to the regulations of §10.2(J) Noise between the hours of 9:00 p.m. to 7:00 a.m.

3. Generator Exemption. Noise created by accessory generators shall be exempt from the regulations of this sub-section J. under the following circumstances:

- a. Regular maintenance and/or testing of generators, with no more than 30 minutes of continued noise for weekly maintenance, and no more than 60 minutes of continued noise for monthly maintenance.

- a.b. Power outages.