

# CITY OF KEEGO HARBOR BOARDS AND COMMISSIONS HANDBOOK



Welcome and thank you for volunteering to participate in local government on behalf of and in service to the City of Keego Harbor. As an appointed member of one of the City’s volunteer boards and commissions, you have accepted the challenge of helping to shape important decisions for your community.

We look forward to working with you!

John Fletcher	Mayor
Brian Lampl	Mayor Pro Tem
Ashley Attisha	Council Member
Rob Kalman	Council Member
Michael Karson	Council Member

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*Note: For simplicity, boards and commissions will be referred to as “commissions.” Board and commission members will be referred to as “commissioners.”*

## Commissions

The following commissions were established to work on behalf of the City by legislation approved by the City Council as part of the City Charter. Most commissions meet monthly. Agendas and meeting minutes are available on the City's website. ([www.keegoharbor.org](http://www.keegoharbor.org))

### **Greater West Bloomfield Cable Communications (GWBCCC):**

Ensures that operators (AT&T and Comcast) comply with federal law, FCC rules, and Michigan Public Act 480, evaluates local cable opportunities, and works with Civic Center TV. Additionally, they advocate on behalf of subscribers with concerns or questions regarding their cable service.

GWBCCC consists of twelve members (six from West Bloomfield and two each from Keego Harbor, Orchard Lake, and Sylvan Lake). Meetings are on the second Thursday of each month.

### **Board of Review:**

Is tasked with hearing and deciding tax and property assessment appeals, poverty/hardship exemptions, or property classification appeals.

The Board of Review is a three-member board that meets in March, July, and December.

### **Parks and Recreation:**

Responsible for the City's horticulture, park maintenance, and City events. Additionally, they review and update the parks and recreation master plan.

Nine members and three alternate members make up this commission. Parks and Recreation meetings are on the second Wednesday of each month.

**Planning Commission:**

Prepares and makes recommendations on zoning ordinances, zoning changes, special use or planned developments, reviews development projects and site plans, and prepares the City master plan.

The Planning Commission is a seven-member commission, and meetings are held on the first Tuesday of each month.

**Tax Increment Finance Authority (TIFA):**

Encourages economic development and revitalization within the TIF district. The authority is responsible for overseeing the distribution of the captured tax revenue in the district to make various improvements, including road preservation, streetlights, landscaping, etc., within the TIF area.

Seven members make up the TIFA board. Meetings occur as new business arises, with a minimum of two meetings a year.

**Zoning Board of Appeals (ZBA):**

Is a quasi-judicial commission designated to hear appeals on administrative matters relating to the City Zoning Ordinance. This can include a property owner appealing a decision they feel is too stringent or is inconsistent with the zoning ordinance, a property owner requesting a variance, or someone seeking clarification or interpretation of the zoning ordinance.

This commission has five members and two alternate members. ZBA meetings are held as needed on the fourth Wednesday of each month.

## Application and Appointment Process

**Applying to a Commission:** Anyone interested in applying for a commission seat must fill out an application. An application is available on the City's website or at City Hall. Once completed, the application is submitted to City Hall.

**Appointment Process:** Once an application has been submitted, an interview is scheduled. The interview is with the applicant, the Chairperson of the specific commission, and a City Council Member (usually the Liaison). After the interviews are completed, at the following City Council meeting, City Council Members discuss the applicants, then a motion for appointment will be made. The appointment to a commission requires a majority vote of the City Council.

**Term of Service:** On average, the term length of service for each commission seat is three years; however, when partial terms are filled, the term of service may vary. The term of service will be in the motion made by City Council.

**Reappointment:** When a commissioner's term of service is nearing completion, an application will be provided by City staff to the commissioner. Once the application has been filled out, City Council Members discuss the reappointment, and a motion will be made at the next City Council Meeting.

**Resignation:** If a commissioner cannot fulfill the expectations of their assignment, they can resign at any time. However, resignation does not prohibit an individual from being appointed again at a future date. If a commissioner intends to resign from their position, a resignation letter is required to be submitted (via email is acceptable) to the City Manager/City Clerk.

# Duties and Responsibilities

**Oath:** Once the applicant is appointed to a commission, the City Clerk will administer the Oath of Office.

**Roles of Commissioners:** City Council is responsible for making the final decisions on most issues but will look to commissions<sup>1</sup> for advice, background information, and analysis. Each commission makes recommendations to the City Council based on the scope of its service area. As the elected body, the City Council has the discretion to accept advice in full, in part, or not at all. Specific commissions have an additional administrative role. This means that they are permitted or required by City Charter to conduct formal reviews and issue administrative decisions. It is vital that commissioners follow the rules established by law and that every administrative decision is supported by facts placed on the record. An administrative decision should not be based on the number of people who show up to speak for or against; instead, it should be based on applicable law, state criteria, presented facts, and testimony. In fact, courts will overturn decisions that lack a factual basis, and decision-makers may even be liable if determinations are not based on what is permissible under the law. In some cases, a decision may be appealed to the City Council; in others, an appeal will be made to Circuit Court.

## **Commissioners have the following responsibilities:**

- To attend all regularly scheduled meetings
- To use parliamentary procedure to conduct and participate in meetings.
- To hold public hearings when called for in the commission's enabling legislation or when otherwise prudent to provide the opportunity for public comment.
- To make recommendations to City Council as required by law or upon request.
- To refrain from any act that constitutes a *conflict of interest*<sup>2</sup>.
- To follow the commission bylaws established.

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<sup>1</sup> The Zoning Board of Appeals does not make recommendations to City Council; they bind the City by their decisions. Whatever decisions that the ZBA renders can only be appealed to the Oakland County Circuit Court.

- To review all relevant materials and come to the meetings prepared to discuss the issues.
- To work cooperatively with other commissions when areas of common interest or overlap in responsibilities.
- To abide by the provisions of the Michigan Open Meetings Act, Act 267 of 1976, as amended (OMA).

**Role of the Chairperson:** The chairperson will discuss the agenda prior to posting for upcoming meetings with City staff. The chairperson is the key to the effectiveness of the group decision-making process. They provide direction and set the tone for the meeting with the other commissioners and with the public. The chairperson must strike a balance between moving the meeting along and allowing for an inclusive and democratic process. To be effective, they need the support and trust of the other members. The chairperson may appoint sub-committees and members to chair the sub-committee as required. In the chairperson's absence, the vice-chairperson will assume the duty of presiding over the meeting.

#### **Techniques of an effective Chairperson:**

- Always uses parliamentary procedure.
- Expects courteous behavior from all commissioners and models such behavior.
- Treats the public with courtesy and diplomacy.
- Listens attentively to all speakers.
- Solicits all commissioners' opinions, ideas, and perspectives to avoid letting a few dominate the discussion.
- Keeps the discussion focused on the topic at hand and redirects the group when it digresses.
- Delays decision-making until all the ideas have been articulated and given consideration.
- Attempts to gain consensus.
- Balances discussion and meeting time constraints.
- Assures formal decorum is always observed.
- Keeps the audience apprised of the process and procedure that the group is using.
- Always restates the motion prior to calling for a vote.



**Successful Meetings:** Commission meetings are open to the public. As the presiding member, the chairperson is responsible for calling the meeting to order on time and adjourning at a reasonable hour. If meetings are canceled or rescheduled, the notification must be posted 24 hours in advance. People who participate in a public hearing or come to express their views on an issue may be doing so for the first time. The experience can be intimidating and emotional. Their behavior can seem nervous, forgetful, or even aggressive; however, most people will relax when they perceive that they are treated well and that their concerns are given thoughtful consideration.

### **Meeting Courtesy:**

- An agenda should always be available for members of the audience.
- Commissioners should treat the members of the public with dignity and respect.
- Commissioners should refrain from displaying negative gestures or sounds when they disagree with a member of the public or another commissioner.
- Commissioners should avoid side conversations during the meeting
- The chairperson should explain the purpose of the meeting and the appropriate time to ask questions.
- The chairperson should explain technical terms or jargon that might make it difficult for the audience to follow the deliberations.
- The chairperson should thank participants for their attendance.

**Preparing for Meetings:** Commissioners will receive a meeting agenda and packet information via email or delivered to the commissioners' homes the week before the scheduled meeting. The agenda and packet items are to be reviewed prior to the meeting. Depending on the commission, the commissioner may have to visit a site prior to the meeting (*permission and approval are required to be obtained from the property owner in advance through the City staff*).

**Attendance:** If a commissioner cannot attend a meeting, he or she should email or call the chairperson and City Manager/City Clerk. This is critically important to determine if there will be a quorum of the members required

to conduct business. A quorum is determined as follows: a majority of the appropriate number of members that comprise the commission shall constitute a quorum. For example, Parks & Recreation is a nine-member commission; five must attend a meeting to have a quorum.

Nonattendance at two or three scheduled meetings (depending on the commission) during a 12-month period may be considered neglect of duty. Neglect of duty may be discussed at a City Council meeting, where the commissioner may be removed at the discretion of the City Council.

**Footnotes:**

***<sup>2</sup>Conflict of interest means any of the following:***

- a. A direct or indirect personal or financial interest of a public officer, his or her spouse, household member, child, stepchild, parent, grandparent, grandchild, sibling, aunt or uncle, brother- or sister-in-law, business associate, or employer or employee in the outcome of a cause, proceeding, application, or any other matter pending before the officer or before the public body in which he or she holds office or is employed.
- b. A situation where a public officer has publicly displayed a prejudgment of the merits of a particular quasi-judicial proceeding. This shall not apply to a member's personal political views or general opinion on a given issue.
- c. A situation where a public officer has not disclosed ex parte communications with a party in a quasi-judicial proceeding.
- d. A "conflict of interest" does not arise in the case of votes or decisions on matters in which the public official has a personal or financial interest in the outcome that is no greater than that of other persons generally affected by the decision, such as in the establishment of a tax rate.

## Commission Organization

**Relationship with City Council:** Each commission advises the City Council on specific issues or policy matters regarding its assigned responsibilities and duties. The outcome of a commission's deliberations should be based on the vote of the body rather than the preferences of a single member. The responsibility of a commission is not to control the outcome of decisions that will be taken on by the City Council but to provide the best possible advice based on public input, analysis, and review of the issue(s). Each commission has its own set of tasks to accomplish its mission, and some decisions are prescribed by local ordinance and/or State of Michigan statute.

The City Attorney is the City Council's legal representative and renders legal opinions on their behalf only in matters involving the City. Occasionally, the City Attorney will work with a commission on a specific issue or attend meetings to advise and counsel the commission.

**Role of Council Liaison:** The City Council Members divide the task of serving as liaisons to the various commissions. The role of the Council liaison varies between commissions. Nonetheless, recommendations for appointments of new commissioners are made in collaboration with the City Council liaison. It is incumbent upon the Council Liaison to keep the other Council Members updated.

**Relationship with City Staff:** A City staff member attends all meetings but is not a voting member of the group. In some cases, they are active participants during the discussion phase. In all cases, the role of staff is to support the work of commissioners by providing information and background, keeping minutes and agendas, helping to plan and organize commission activities, and in general, acting as a facilitator. When commissioners differ on an issue, the role of City staff is to remain neutral. Sometimes commissioners will want to direct the staff; this action is inappropriate.

**Working Together:** City Council often chooses to appoint individuals to a commission whose views, backgrounds, opinions, and values vary widely from one another. The purpose of diverse representation on commissions is to ensure that the entire community has a voice in decision-making. Sometimes these differences cause conflict during the process of deliberation and finalizing recommendations.

**To be an effective commissioner, everyone must:**

- Work within a team framework of compromise and exchange.
- Separate people from the issues when conflict arises.
- Focus on mutual interests and shared goals.
- Look for compromises and work to understand diverse perspectives.
- Examine one's own approach to dealing with conflict and be open about concerns where there is room for compromise.
- Strive to problem-solve based on collaboration rather than simply deciding.

Most issues will be resolved, and decisions will be made through the voting and deliberation process. As a commissioner, it is essential to recognize that one must thoroughly examine the pros and cons of each situation. Once an issue is decided, it is equally important to accept the wishes of the majority and move on to the next issue.

# Governing Rules and Procedures

**Parliamentary Procedures:** In addition to formally adopted rules in the respective commission's bylaws, commissioners are encouraged to familiarize themselves with the latest edition of Robert's Rules of Order. This is of particular importance for chairpersons in their capacity as the presiding officer tasked with conducting fair and efficient meetings.

All commissions are required to use parliamentary procedures to conduct their meetings in all cases to which they are applicable, provided that they are not in conflict with the respective commission's bylaws, city ordinances, or applicable State of Michigan statutes.

**Open Meetings Act (OMA):** A state law requiring public bodies' meetings to be open to the public except in certain specific situations. PA 267 of 1976, as amended, is an act that requires that certain meetings of certain public bodies be open to the public; to require notice and the keeping of minutes of meetings; to provide for enforcement; to provide for invalidation of governmental decisions under certain circumstances; to provide penalties, and to repeal certain acts and parts of acts.

**Freedom of Information Act (FOIA):** A Federal law that generally provides that any person has a right, enforceable in court, to obtain access to federal agency records. As commissioners, your actions during meetings are subject to the Freedom of Information Act.

Understanding the Act and what pieces of information it applies to is crucial to a transparent development process. In accordance with the Open Meetings Act, information created or presented under the following circumstances are also subject to the Freedom of Information Act.

**ANY** gathering, including work sessions, of a commission, sitting (or through telephonic or video equipment) as a commission or an informal assemblage of:

- (i) as many as three members of a commission, or
- (ii) a quorum, if less than three, of the constituent membership,

WHEREVER the gathering is held;

WITH or WITHOUT minutes being taken; **AND**  
WHETHER OR NOT votes are cast.

**NOTE:** This also applies to ANY meeting, including work sessions.

### WHAT IS **NOT** considered A MEETING?

The gathering of employees; or

The gathering or attendance of two or more commissioners at:

Any place or function where no part of the purpose of such gathering or attendance is the discussion or transaction of any public business, and such gathering or attendance was not called or prearranged with any purpose of discussing or transacting any business; OR

A public forum, candidate appearance, or debate, the purpose of which is to inform the electorate and not to discuss or transact public business.

### OTHER FOIA PROVISIONS

**MINUTES: ARE REQUIRED** for any meeting of commissions.

**VOTING: NO secret or written ballots are ever allowed.**

**CLOSED MEETINGS:** Allowed **ONLY** as specifically authorized by the OMA and FOIA and require motion stating the purpose.

**NOTES and RECORDS:** If referred to or passed between members, your notes and records are subject to FOIA.

**EMAILS:** Any email to a majority of a commission or directed towards a decision of a commission is subject to FOIA. **REPLY ALL responses are subject to FOIA and are to be avoided.**

We hope you enjoy your experience serving on one of the City's commissions. Most participants are satisfied with the process, enjoy interacting with residents, and appreciate working with others who share a commitment to the policy process and volunteering in the community.

## Frequently Asked Questions

### **1. Whom do I contact if I cannot attend a meeting?**

*Email or call the City Manager/City Clerk and chairperson*

### **2. Whom do I contact if items are missing from my packet?**

*Contact the City Manager/City Clerk.*

### **3. Once I receive my packet, who can I call if I have questions about the material received?**

*Your first point of contact is the chairperson, then City Manager/City Clerk or City staff.*

### **4. When do I use a resolution versus a regular motion?**

*Motions are how action is proposed at a meeting run under parliamentary procedure. A resolution is simply another form of a motion, and it is used for more important or complex questions, or when greater formality is desired, it is presented in the motion in the form of a resolution. Items that would be resolutions: financial matters, budget amendments, contracts/agreements.*

*You make this kind of motion by saying, "I move the adoption of the following resolution," and then you read the resolution or "I move the adoption of resolution (i.e., #12-1234 with description), as presented."*

### **5. What authority do I have as an individual commissioner?**

*You are one person of several on the commission; a commission takes action as a whole. The only time you should take action as a commissioner is in the presence of the other members at a scheduled meeting. Even as a subcommittee or when requested by the commission for a specific task it is to report back to the entire commission and then deliberations or a final decision can be made.*

## 6. Can I email, call, text, or meet fellow commissioners to discuss upcoming agenda items?

*It depends; phone calls, emails, texting, social media, and in-person gatherings amongst commissioners can all potentially violate the Michigan Open Meetings Act (OMA). One commissioner may contact another for informational purposes.*

*However, keep in mind, all decisions must be made at a meeting open to the public – 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 [commission] is required and by which a public body effectuates or formulates public policy."<sup>3</sup> The OMA provides that "[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<sup>4</sup> of a public body constituting a quorum of its members shall take place at a meeting open to the public."<sup>5</sup>*

*The OMA does not contain a "voting requirement" or any form of "formal voting requirement." A "consensus-building process" that equates to decision-making would fall under the act.<sup>6</sup>*

### **The following examples all violate the Open Meetings Act:**

*Telephone Example: where board [commission] members use telephone calls or sub-quorum meetings to achieve the same intercommunication that could have been achieved in a full board or commission meeting, the members' conduct is susceptible to "round-the-horn" decision-making, which achieves the same effect as if the entire board [commission] had met publicly and formally cast its votes. A "round-the-horn" process violates the OMA.<sup>7</sup>*

*(Continued on next page)*

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<sup>3</sup> 24 MCL 15.262(d).

<sup>4</sup> "Deliberation" has been defined by courts to mean any discussion toward a decision "...the act of carefully considering issues and options before making a decision or taking some action..." (Ryant v Cleveland Twp, 239 Mich App 430 (2000)) The Court of Appeals held that it was enough "that the quorum convened for the purpose of deliberating" i.e., actual deliberation not needed Markel v Mackley (Court of Appeals, November 2016)

<sup>5</sup> 25 MCL 15.263(2) and (3).

<sup>6</sup> Booth Newspapers, Inc v Univ of Michigan Bd of Regents, 444 Mich at 229.

<sup>7</sup> Booth Newspapers, Inc, 444 Mich at 229 – "any alleged distinction between the [public body's] consensus building and a determination or action, as advanced in the OMA's definition of 'decision,' is a distinction without a difference."



*Email Example: a commissioner comes up with a great idea. The commissioner shares this idea with the entire commission. Then the other members of the commission start replying via the “Reply All” feature of the email system.*

*Social Media Example: commissioner 1 (of a 5-person commission) takes to their Facebook® page to champion a great new idea. (Assume the idea relates to their role as a commissioner.) Commissioner 2 does not like this great new idea and replies with a post of their own. Two days later, commissioner 3 agrees with commissioner 1 and posts a reply.*

*Note: Canvassing commissioners on how they might vote – an informal canvas by **one member** of a public body [commission] to find out where the votes would be on a particular issue does not violate the OMA.*

*For additional information, please refer to The Open Meetings Act Handbook Prepared by: Michigan Department of Attorney General Dana Nessel. <https://www.michigan.gov/aq/foia/open-meetings>*

## **7. Can I discuss items not on the printed agenda at a meeting?**

*No, this type of discussion would violate the Open Meetings Act.*

*However, at their discretion, the chairperson can call for a motion to add a topic. As per our City attorney, the best practice for amending the meeting’s agenda is to pass the motion by unanimous consent.*

*In keeping with the OMA's spirit and promoting government transparency, since this newly added topic will not have had an opportunity to be noticed to the public in advance, this practice should be used infrequently or avoided.*

## **8. When is a roll call vote used?**

*There is no bright-line rule (judicial test using clearly defined and objective factors) for conducting a roll call vote.<sup>8</sup> We suggest some rules of thumb. When a voice vote reveals a divided vote on the commission (i.e., more than one no vote), a roll call vote should be conducted to remove doubt about the vote's count. Also, a roll call vote is the best choice when the commission is acting on matters of significance, such as contracts of substantial size, ordinances, or decisions that will have multi-year impacts.<sup>9</sup>*

## **9. As a commissioner, may I use the public comment or commission comments portions of the agenda to ask questions?**

*You may use this time to make statements; however, there should be no active discussions on non-agenda items; see FAQ #7 for more details on dealing with non-agenda topics.*

*Questions and inquiries regarding individual properties and property owners' complaints or situations (e.g., construction, permitting, inspections, etc.) should be addressed with City staff during regular City Hall hours.*

## **10. As a ZBA member do I have any specific obligations?**

*Members of the Zoning Board of Appeals should always keep in mind the State-defined criteria for granting a variance. Variances should only be granted when the applicant can show "practical difficulty," meaning a unique situation on their property that functionally prevents them from complying with the Zoning Ordinance.*

*For additional information and criteria, please refer to the ZBA MML Handbook, Michigan Zoning Enabling Act, and the Michigan Planning Enabling Act.*

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<sup>8</sup> "The fact that the Open Meetings Act prohibits secret balloting does not mean that all votes must be roll call votes." *Esperance v Chesterfield Twp*, 89 Mich App at 464 n 9. The OMA does provide that votes to go into closed session must be by roll call. MCL 15.267.

<sup>9</sup> The Open Meetings Act Handbook Prepared by: Michigan Department of Attorney General Dana Nessel. <https://mi.gov/foia-ag>

**11. As a commissioner, can I attend and participate in other commission meetings that I am not an official member of during public comment?**

*As a member of the public, you are welcome at all public meetings.*

*However, when not acting in your official capacity as a commissioner, when speaking during any public comment period, you need to represent yourself as a member of the public and speak as such.*

*As innocent as a commissioner's motives may be, it is not appropriate to use your role on another commission and make comments as either a commissioner or as if you represent the entirety of your commission at another commission's meeting.<sup>10</sup> Doing so can inadvertently exert undue influence on another commission. While it is not technically a violation of any law, it can be perceived as crossing an ethical boundary; interfering with the role of a commission as an independent body is not a best practice and should be avoided.*

**12. How is a meeting adjourned?**

*The motion to adjourn is straightforward and simple:*

*Adjourn now: commissioner with the floor states: "Chairperson \_\_\_\_\_, I move to adjourn." This requires a second and a majority vote. Adoption of the motion closes the meeting.*

*Alternatively, a meeting can be adjourned without a vote when you reach the end of the agenda. The chairperson may just ask whether there's any more business; if no one else speaks up with any further business, the presiding officer can declare the meeting adjourned.*

*Note: A meeting isn't adjourned until the chairperson declares it adjourned, no matter how loud the "ayes" ring out when the vote is taken.*

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<sup>10</sup> Exceptions: when participating as a commissioner in a joint meeting of two or more commissions; or if requested to attend a meeting in your official capacity as a commissioner to provide an update or other commentary on a specific topic; or you are the current planning commission liaison to the ZBA (who also serves as a member of the ZBA) at a ZBA meeting.

**The City of Keego Harbor thanks you for your service.  
Your dedication is very appreciated!**



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