

City of Sturgis
ZONING BOARD OF APPEALS (ZBA) BY-LAWS

Article 1.
General Overview

The Michigan Zoning Enabling Act, known as MZEA (Public Act 110 of 2006; MCL 125.3101 et seq.), empowers the City of Sturgis to establish a zoning ordinance to regulate the development of land within its boundaries. The creation of a Zoning Board of Appeals is a required component of a valid zoning ordinance.

The City Commission adopted zoning ordinance 1.1405 effective May 22, 2013. Section 1.1405 (A) through (K) of the ordinance established general procedures, standards, and administrative organization for the Zoning Board of Appeals.

These by-laws and procedures serve to provide additional standards for the conduct of the business of the Zoning Board of Appeals to aid it in carrying out its responsibilities in clear, consistent, and fair fashion.

Article 2. Membership and Appointments

Pursuant to state law, the zoning board of appeals consists of at least five members appointed by the City Commission for a term of three years running from the date of appointment and extending for a further period until a successor shall be appointed. The City Commission may appoint not more than 2 alternate members for the same term. The officers of the Board, in their line of authority, shall be the Chairperson, and Vice-Chairperson.

Members of the board must be residents of the City; members moving outside the City boundaries may finish their terms but will not be reappointed.

Article 3. Officers of the Board

Chairman:

- A. Presides over all meetings of the Board
- B. Appoints all committees or advisory committees established and provided for the Board
- C. Shall have the right to vote as a Board member on all matters before the Board
- D. Shall have the same right to introduce a motion as any other Board member
- E. Shall perform all the additional duties and responsibilities which are a normal part of that office and as directed by the Board

Official Secretary, also serves as Vice-Chairman:

- A. Assumes the duties and responsibilities of the Chairperson in the event of absence of the Chairperson.
- B. Shall have the right to vote as a Board member on all matters before the Board.
- C. Shall have the same right to introduce a motion as any other Board member.
- D. Shall perform all the additional duties and responsibilities which are a normal part of that office and as directed by the Board.
- E. Sign all official documents as directed.

Staff Secretary:

Shall be a City Employee designated by the Director of Community Development or his/her designee.

- A. Keep the minutes of the Board meeting.
- B. Prepare all required public notices, meetings, notices, and the proposed agenda.
- C. Carry on the correspondence of the Board.
- D. Maintain the files of the Board.
- E. Furnish all Board members with access to the City of Sturgis Code of Ordinances.
- F. Notify the City Commission if any member of the Board is absent for three consecutive meetings or for 25% of all scheduled meetings in one year.

Article 4. Election of Officers

- A. Schedule: The Board shall elect its officers annually at the first regularly scheduled meeting after appointment or reappointment of the board by the City Commission. The election of officers shall appear on the published agenda for that meeting. The Board may choose to postpone the election by resolution if there is a need for nominees or additional voting members to be present.
- B. Nomination: Officers shall be nominated orally at the election meeting. Any nominee shall accept or decline the nomination prior to the vote for such office.

- C. Election: Election for each office shall be held immediately after nominations. The election shall be by roll call vote unless a member of the board requests vote by written ballot instead. A simple majority of the Board is needed to elect an officer.
- D. Special Elections: A special election shall be held to fill a vacancy at the next regularly scheduled meeting of the Board at which the item can be placed on the published agenda. Special elections shall follow the normal election procedure as set forth herein.

Article 5. Terms of Office

- A. All officers shall serve until the first regular meeting of the succeeding calendar year, or until successors are elected.
- B. All current officers of the Board shall be eligible for re-election or for any vacancy of office.
- C. Alternate Zoning Board members may not serve as officers of the Board.
- D. Any member of the Board, who is also a member of the zoning commission, or the planning commission, shall not participate in a public hearing on or vote on the same matter that the member voted on as a member of the zoning commission, or the planning commission.
- E. All members of the Board shall serve without compensation.

Article 6. Ethics and Conflicts of Interest

- A. A member of the ZBA shall abstain from discussion or voting on any matter where that member is involved in a real or apparent conflict of interest. Decisions regarding conflicts of interest shall be evaluated on a case-by-case basis with reasonable application of the principles in this Section. A conflict of interest shall at a minimum include, but is not necessarily limited to:
 - 1) Discussing, voting on, or otherwise acting on a matter in which a member or any member of his/her immediate family, his/her partner, or an entity with whom the member has family or business ties has a direct or indirect financial or beneficial interest. Immediate family shall include the member's spouse, parent, grandparent, child, grandchild, brother or sister or the spouse of any of them.
 - 2) Discussing, voting on, or otherwise acting on a matter involving work on property which is owned by that member, or which is adjacent to

property owned by that member.

- 3) Discussing, voting on, or otherwise acting on a matter where the member's employee or employer is an applicant or agent for an applicant, or has a direct financial or beneficial interest in the outcome.
- B. When a conflict of interest exists with regard to a particular matter, the member of the Board who is subject to the conflict, shall do all of the following immediately, upon first knowledge or realization that a conflict exists:
- 1) Declare that a conflict exists, and the member should seek guidance from the other board members and/or the City Attorney to determine if recusal is necessary.
 - 2) Disclose, except where it violates a confidence, the general nature of the conflict, and the minutes shall so record the conflict and recusal.
 - 3) Cease to participate in any matter when the matter is discussed, voted on, or otherwise acted on at a meeting, or any other forum.
- C. Before discussion on an item or voting, a member shall disclose all pertinent facts regarding the potential conflict of interest, except where it violates a confidence, and those facts shall be included in the minutes.
- D. Where a question has arisen as to whether a member is ineligible to participate in discussion or vote on a matter because of a conflict of interest, the Board may determine that the member is ineligible due to a conflict of interest by a vote of a majority of the other members. Upon such a determination, the ineligible member shall not participate in discussion or vote on the matter.
- E. If the recusal of a member of the Board results in the loss of a quorum, then the matter shall be postponed until the next regularly scheduled meeting, and testimony shall not be heard without a quorum.
- F. A member of the Board shall neither solicit nor accept gratuities, favors, or anything of monetary value from entities in a position to benefit from a decision of the Board.
- G. A member of the Board shall not obtain, for himself or herself or for any person with whom he/she has business or family ties, any financial or beneficial interest in a matter which may be affected by a decision of the Board. This restriction shall apply during the

member's tenure on the Board and for one year thereafter.

- H. Members shall conduct themselves in a fair, courteous, and understanding manner at all times in the discharge of their duties, and shall avoid exchanges or actions based upon personal differences.

Article 7. Meetings

Section 1. Regular Meetings

- A. Regular meetings are held twice per month, unless the Board cancels the meeting for lack of a quorum or lack of business to be conducted.

Section 2. Special Meetings

- A. Special meetings may be held as called by the Chairperson or by any three Board members.
- B. Special meetings of the Board shall be noticed to the public and held in accordance with the Michigan Zoning Enabling Act (MZEA), and the Open Meetings Act. The public notice requirements of the MZEA require that notices be published and mailed at minimum of 15 days prior to the meeting, this constrains when special meetings may be scheduled relative to the monthly scheduled regular meetings of the board which may lead to the appeal in question being placed on the next regular meeting agenda instead of at a separate meeting.

Section 3. Conduct/Format of Meetings

- A. General agenda for a Board Meeting:
 - 1) Call the meeting to order
 - 2) Call the roll (determine if there is a quorum to proceed with the business on the agenda, three Board members constitute a quorum for all business except use variances which requires the vote of four members, MCL 125.3604 (10)).
 - 3) Review and approval of the minutes of the prior meeting
 - 4) Other business (elections, announcements, comments from the public not related to a specific appeal)
 - 5) Appeal hearings (on agenda in the order of appeal number, which are assigned by staff sequentially as the applications are submitted)

6) Meeting adjourned

B. General format of appeal hearings:

- 1) Appeal is announced by the Chairperson
- 2) Appellant(s) come to podium and introduces themselves
- 3) Chairperson presents a summary of the appeal
- 4) Appellant(s) present evidence for their appeal
- 5) Call for public comment related to the appeal under consideration
- 6) Chairman asks staff for any outside correspondence related to the appeal
- 7) Public comment closed
- 8) Board deliberates
- 9) Chairman calls for a motion on the appeal
- 10) Motion is made, no further discussion unrelated to the motion occurs until the motion is acted on or fails due to lack of support or votes to approve or deny.
- 11) Once a motion has been approved or denied, that action is final and the hearing for that appeal is complete.
- 12) An applicant may withdraw his or her application at any time prior to action thereon with the consent of the Board, but if a motion that has been made is pending either to grant or deny, the motion will have precedence.
- 13) All voting shall be by voice and shall be recorded as yes or no. Roll call votes will be taken and recorded upon every non-unanimous decision.

C. Public participation

- 1) All persons shall be permitted to attend any meeting and may not be

excluded, except for a breach of the peace committed at such a meeting.

- 1) Any person attending a meeting, unless excluded under the proceeding section, may speak in accordance with the established rules of the Board.
- 2) Any person attending a meeting may speak upon an item during the public comment period for such case. Otherwise, a person attending a meeting may speak only during the general public comment period during the Other Business period at the end of the meeting agenda.
 - a. To assure that all those in attendance will have an opportunity to be heard, the Chairperson may announce and impose reasonable restrictions with respect to the conduct of the meeting, which restrictions may include imposition of a three (3) minute time limit on public participation by each speaker and a limit on the number of persons to be heard. Typically, the limitation on the number of speakers or the imposition of a three (3) minute time limit may be imposed by asking for a spokesperson if there are a large number of persons who wish to comment during the public participation portions of the meeting or to ensure they all have a chance to be heard.
 - b. The Chairperson may limit comments to appeals being heard or matters relating to functions of the Board.
 - c. The Chairperson may request any person disrupting the meeting to leave the meeting room. If such person does not leave, the meeting may be recessed until the disturbance has been quelled and/or the disruptive person removed.

8-23-22

Date Adopted

Robert A. Jenkins

Chairman

Nancy Allen

Official Secretary

*These by-laws supersede any and all previous by-laws and
amendments.*