

BYLAWS OF THE RAPID CITY ZONING BOARD OF ADJUSTMENT

Article I. Name of the Board

The name of this organization shall be the Rapid City Zoning Board of Adjustment, hereinafter referred to as “the Board.”

Article II. Authorization

This Board is established pursuant to Rapid City Municipal Code 17.54.010(B) and pursuant to provisions in South Dakota Codified Laws Chapter 11-4.

Article III. Purpose

The purpose of the Board is to promote the health, safety and the general welfare of the community by granting variances to the ordinances found in Title 17 of the Rapid City Municipal Codes in appropriate cases and subject to appropriate conditions and safeguards. The Board may achieve the same purpose by hearing and deciding appeals of orders, requirements, decisions or determinations of an administrative official under Title 17 of the Rapid City Municipal Code.

Article IV. Responsibilities and Powers of the Board

The duties of the Board shall be to exercise the powers discussed in RCMC 17.54.010(B) and in state law. At the time of adoption of these bylaws, these powers are as follows:

- a. The Board shall have the power to hear and decide appeals wherein it is alleged there is an error in any order, requirement, decision or determination made by an administrative official pursuant to this title;
- b. The Board shall have the power to hear and decide, in accordance with the provisions of any such ordinance, requests for special exceptions or for interpretation of the zoning map; and
- c. Where there are practical difficulties or unnecessary hardship of carrying out the strict letter of this title, in any way, the Board shall have the power, in passing upon appeals, to authorize the variance from the terms of this title as will not be contrary to the public interest and so that the intent of Title 17 of the Rapid City Municipal Code shall be observed and substantial justice done.

The Board shall hold at least one public hearing on each appeal or application for a variance.

The Board shall have the power to call on any City departments for assistance in the performance of its duties, and it shall be the duty of other departments to render all such assistance as may be reasonably required. In the case of appeals, the Board shall call upon the Common Council for all information pertinent to the appeal and their recommendations.

Article V. Appeals to the Board

Section 1. Appeals to the Board may be taken by any person aggrieved or by any officer, department, board, or bureau of the City affected by any decision of the administrative officer. Any party may appear at the hearing in person or by agent or by attorney.

Section 2. Such appeal shall be taken within 30 days of the decision of the administrative officer by filing with the officer from whom the appeal is taken and with the Board a notice of appeal specifying the grounds for the appeal. The officer from whom the appeal is taken shall promptly transmit to the Board all the papers constituting the record upon which the action appealed was taken.

Section 3. An appeal to the Board stays all proceedings in the action appealed from, unless the administrative officer from which the appeal is taken files a certificate with the Board that, based on facts stated in the certificate, a stay would in his or her opinion cause imminent peril to life or property. In such case proceedings shall not be stayed except by a restraining order granted either by the Board or by a court of record, on application, upon notice to the officer from whom the appeal is taken and on due cause shown.

Section 4. Unless the applicant consents to a greater time, the Board shall decide each appeal no later than forty-five days from the date the appeal is taken.

Section 5. Pursuant to state law, a concurring vote of two-thirds of the members of the Board is necessary to reverse any order, requirement, decision, or determination of any administrative official; to decide in favor of the applicant on any matter; or to effect any variation from the ordinances in Title 17. Accordingly, three votes in favor of any appeal or application shall be deemed a denial and shall be final action on the motion. Voting shall be by oral question and answer.

Article VI. Officers

Section 1. The officers of the Board shall consist of a Chair, a Vice Chair, and a Secretary.

Section 2. The Chair shall preside at all meetings and hearings of the Board and shall have duties normally conferred by parliamentary usage on such officers. The Chair shall direct any staff employed by the Board, and shall be responsible for all official communications made by the Board.

Section 3. In the absence, disability or under the direction of the Chair, the Vice Chair shall be vested with all the powers and perform all the duties of the Chair, and shall have such additional powers and perform such additional duties as shall be ordered by the Board.

Section 4. In the absence, disability or under the direction of the Chair and the Vice Chair, the Secretary shall be vested with all the powers and perform all the duties of the Chair and/or Vice Chair, and shall have such additional powers and perform such additional duties as shall be ordered by the Board.

Section 5. In the event that a meeting is held where no officer is in attendance, the Board members in attendance shall elect a member to serve as Chair pro tem for that meeting only.

Article VII. Election of Officers

Section 1. An annual organizational meeting shall be held at the last regular meeting in ~~January~~October.

Section 2. At the annual meeting, nominations shall be taken for Chair.

Section 3. A candidate for Chair receiving a majority vote of the entire membership of the Board shall be declared elected and shall serve for one year or until his or her successor shall take office. In the event that only one Board member is nominated for an open Officer position, an open election shall be held. In the event that more than one Board member is nominated for any office, an election by secret ballot shall be held.

Section 4. The election of Vice Chair shall occur after the election of Chair and the same manner, as described in Sections 2 and 3.

Section 5. The election of Secretary shall occur after the election of Vice Chair and the same manner, as described in Sections 2 and 3.

Section 6. Any officer can be removed from office by a 75 percent vote of all voting members at a regular Board meeting provided said officer is notified of the proposed removal 15 days before the meeting. In the event of the removal or resignation of the Chair, the Vice Chair shall assume the Chair's responsibilities for the remainder of the term. In the event of the removal or resignation of the Vice Chair, the Secretary shall assume the Vice Chair's responsibilities for the remainder of the term. In the event the Secretary's position is vacated, the office shall be filled at the next regular meeting by the regular election procedure and shall be for the remainder of the term.

Article VIII. Membership

~~Section 1.—The Board shall be composed of the members of the Planning Commission, pursuant to SDCL 11-4-13. five residents of Rapid City who are not members of any governing body. The Board shall also consist of two alternates to participate in hearings and to vote only when one or more of the members are absent. The members shall be appointed by the Mayor and approved by the Common Council.~~

~~Section 2. The terms of the members shall be for three years, and vacancies shall be filled for the unexpired term only. The terms of all members shall begin January 1 and terminate on December 31 of the appropriate year.~~

~~Section 3. The Common Council has the power to remove any member of the Board for cause upon written charges and after a public hearing. Three consecutive absences of a member of the Board from regularly scheduled meetings may result in a recommendation to the Common Council from the Board that the member be replaced.~~

~~Section 4. Resignations of members of the Board shall be in writing and shall take effect upon receipt by the Mayor.~~

Article IX. Meetings

Section 1. Regular meetings of the Board shall be scheduled as needed, but generally twice in each month, and in accordance with the schedule established by the Board at the last regularly scheduled meeting of the Board each year. ~~The Board shall meet on the first and third Tuesday of each month as needed to conduct hearings on pending applications and/or appeals. The regularly-scheduled meetings of the Board shall convene at 7 a.m.~~ No meeting shall be held if there are no applications or appeals for the Board to consider and if the Board has no other business to attend to.

Section 2. Public notice of the time and place of a hearing for an appeal to the Board shall be given once at least ten days in advance by publication in a legal newspaper of the City. Public notice of the time and place of a hearing for a variance request shall be given at least seven days in advance by publication in a daily paper of general circulation. Due notice shall be given to the parties in interest pursuant to RCMC 17.54.020 for all matters before the Board.

Section 3. A Board member may join the meeting by telephonic participation and be included in the determination of a quorum; if a member participates telephonically, each vote shall be taken by roll call.

Section 4. Special meetings may be called by the Chair. It shall be the duty of the Chair to call a special meeting when requested to do so by a majority of members of the Board. If a special meeting contains a public hearing on any application or appeal, notice shall be given in accordance with Section 2.

Section 5. All meetings or portions of meetings at which official action is taken shall be open to the general public. However, the Board may meet in executive session in accordance with South Dakota law.

Section 6. Unless otherwise specified, Robert's Rules of Order shall govern the proceedings at the meetings of this Board.

Section 7. The Board shall keep minutes of its proceedings showing the vote of each member upon each question, or, if absent or failing to vote, indicating

such fact. The Board shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board. All such records shall be open to the public.

Article X. Amendment of Bylaws

These Bylaws may be amended at any regular meeting of the Board, provided that the proposed amendment has been introduced in writing at least two weeks prior to a regular meeting of the Board. Amendment of the Bylaws shall require the affirmative vote of a majority of the members of the Board.

Adopted this _____ day of _____, 2015.

ZONING BOARD OF ADJUSTMENT

Chair

ATTEST

Secretary