

**MODEL
VILLAGE ZONING BOARD OF APPEALS
BY-LAWS**

WHEREAS, it is desirable for the Village Zoning Board of Appeals (ZBA) to be governed by rules for the efficient and proper administration of its affairs, now therefore be it

RESOLVED, that the Village Zoning Board of Appeals, for the Village of _____, Otsego County, New York, created by resolution of the Village Board on the ___ day of _____, 20____, does hereby adopt the following rules as the by-laws to govern its activities.

ARTICLE I: MEETINGS

Section 1.1 Annual Meetings

The annual meeting of the ZBA shall be the first regular meeting in the month of _____ of each year hereafter. Such meeting shall be devoted to the election of the Vice Chairperson and Secretary for the ensuing year, preparation of an annual report to the Village Board, and such other business as shall be scheduled by the ZBA.

Section 1.2 Regular Meeting

Regular meetings of the ZBA shall be held in the _____ at _____ P.M., on the _____ of each month hereafter. At such meetings, any and every matter properly brought to the attention of the ZBA shall be considered.

Section 1.3 Special Meetings

Special meetings of the ZBA shall be held at a time and place designated by the Chairperson. Verbal or written notice thereof shall be given to all members not less than twenty-four hours in advance thereof.

Section 1.4 Public Notice of Meetings

Public notice of the time and place of a meeting scheduled shall be posted in the local newspaper at least one week prior to the meeting and shall be conspicuously posted in one or more designated public locations at least seventy-two hours before such meeting. Public notice of the time and place of every other meeting shall be, to the extent practicable, posted in the newspaper and shall be conspicuously posted in one or more designated public locations.

Section 1.5 Quorum

At any meeting of the ZBA, a quorum shall consist of a majority of the members of the Board. No action shall be taken in the absence of a quorum, except that those members present shall be entitled to call a Special Meeting at a subsequent date.

Section 1.6 Proceedings

- a. At any regular meeting of the ZBA, the following shall be the regular order of business:
 1. Roll Call
 2. Reading and approval of minutes of the preceding meeting
 3. Privilege of the floor

4. Communications
5. Reports and action on old business
6. New business
7. Agenda for next succeeding meeting
8. Adjournment

- b. Each action of the ZBA required by law, rules or regulations shall be embodied in a formal resolution duly entered in full upon the Minute Book after an affirmative vote. Each resolution so adopted shall specifically authorize, if necessary, the use and imprint of the official signature of this ZBA as hereinafter defined.

Section 1.7 Rules and Procedure

All meetings of the ZBA shall be conducted in accordance with Robert's Rules of Order. All meetings shall be conducted pursuant to the New York State Open Meetings Law, including regular, annual and special meetings. Executive meetings shall be conducted pursuant to §105 of the Open Meetings Law.

ARTICLE 2: OFFICERS

Section 2.1 Officers

The officers of the ZBA shall consist of a Chairperson, a Vice Chairperson and a Secretary.

Section 2.2 Appointment of Officers and Terms

The Mayor shall appoint the Chairperson, subject to the approval of the Village Board, and for a term as expressed in the notice of appointment.

The ZBA shall elect a Vice-Chairperson who shall serve as acting Chairperson in the absence of the Chairperson. The ZBA shall also elect a Secretary. Elections for these positions shall take place at the annual meeting of the ZBA and shall be for one year terms or until the next annual meeting, whichever is sooner. In the event the Secretary shall be absent from any meeting, the officer presiding shall designate another member of the ZBA to act pro tem in place of the Secretary.

Section 2.3 Duties of Officers

The duties and powers of the officers of the ZBA shall be as follows:

- a. Chairperson:

1. To preside over all meetings,
2. To decide on all points of order and procedure, subject to these by-laws, unless directed otherwise by a majority of the Board,
3. To call special meetings in accordance with these by-laws,
4. To appoint any committee found necessary to carry out the business of the Board,
4. To sign, together with the Secretary, all official documents of the ZBA in accordance with the requirements of these by-laws,
5. To see that all reports, documents, and actions of the ZBA are properly made, executed, filed or taken, as the case may be, in accordance with law and the actions and regulations of the ZBA,
6. To serve as liaison to the Village Board at the direction of the ZBA.

b. Vice Chairperson:

1. During the absence, disability or disqualification of the Chairperson, the Vice Chairperson shall exercise or perform all the duties and be subject to all the responsibilities of the Chairperson.

c. Secretary:

1. To keep the minutes of all meetings in an appropriate Minute Book, including a record of the vote of each member upon every official action,
2. To give or serve all notices requires by law or by the by-laws,
3. To be custodian of records of the ZBA,
4. To attend to all official correspondence,
5. To lay before the ZBA at its meetings all official correspondence received by the Secretary relating to the business of the Board,
6. To affix to any official document of this ZBA the official signature thereof whenever the same shall be required by law or the regulations of the Board, such action to be taken, however, only after such action shall have been authorized by an affirmative vote of the Board.
7. To notify the Village Board of vacancies on the ZBA.

ARTICLE 3: VOTING AND CONFLICTS OF INTEREST

Section 3.1 Voting

At all meetings of the ZBA, each member properly appointed and attending shall be entitled to cast one vote. Voting shall be by voice. A majority vote of the Board shall be necessary for the adoption of any proposed action, resolution or other voting matter.

Section 3.2 Conflicts of Interest

Any application, petition, or request brought before the ZBA for action pursuant to any rule, ordinance, or regulations, shall state the name and nature of interest of any municipal officer or employee herein, as defined in §18-809, General Municipal Law, Chapter 646 of the Consolidated Laws of New York State. Any member of the ZBA having any such interest in any matter brought before the Board, shall either absent or disqualify himself from any consideration, discussion or vote upon such matters. Such absence or disqualification shall be noted in the minutes of the ZBA by the Secretary, who shall also note that no vote was cast by such member on said matter.

ARTICLE 4: VACANCIES

Section 4.1 Vacancies

Should any vacancy occur among the members of this ZBA by reason of death, resignation, disability or otherwise, immediate notice thereof shall be given to the Village Clerk by the Secretary. Should such vacancy occur for the position of Chairperson, the Vice Chairperson, Secretary, or senior member of the Board, in that order, shall serve as Chairperson until the Village Board appoints a new Chairperson.

Section 4.2 Recommendation to Village Board

The ZBA may recommend persons to the Village Board for consideration for appointment to a vacancy on the ZBA. If such recommendations are made on behalf of the ZBA, they shall be only after an affirmative vote

thereon. This section does not prohibit individual members of the ZBA from making individual preferences to fill vacancies.

ARTICLE 5: TRAINING AND ATTENDANCE REQUIREMENTS

Each member of the ZBA shall complete, at a minimum, four hours of training each year designed to enable such members to more effectively carry out their duties. Training received by a member in excess of four hours in any one year may be carried over by the member into succeeding years in order to meet the requirements. Such training shall be approved by the Village Board and may include, but not be limited to, training provided by a municipality, regional or county planning office or commission, county planning federation, state agency, statewide municipal association, college or other similar entity. To be eligible for reappointment, a member shall have completed the training requirement. The training may be waived or modified by resolution of the Village Board when, in the judgment of the Village Board, it is in the best interest of the village to do so. No decision of a ZBA shall be voided or declared invalid because of a failure to comply with this subdivision.

ARTICLE 6: APPEALS AND PROCEDURES

Section 6.1 Receipt of Appeals

The ZBA shall hear appeals on any order, requirement, decision, interpretation, or determination made by the zoning enforcement officer (ZEO). Such appeal may be taken by any person aggrieved, or by an officer, department, board or bureau of the village.

The Village Clerk is hereby authorized to receive appeals and communications on behalf of the ZBA. The Village Clerk shall immediately notify the Secretary of the ZBA, and transmit to said Secretary, any forms, letters or other materials. The Secretary shall request the Chairperson of the ZBA to call a special meeting of the ZBA if any official action on such forms, letters or materials is required before the next regularly scheduled meeting.

An appeal shall be taken within sixty (60) days after the filing of the action of the ZEO, by filing a notice of appeal with the ZEO and the ZBA. The ZEO shall transmit to the ZBA all the papers constituting the record for the appeal.

An appeal may be amended up to ____ days prior to the public hearing on the appeal.

An appeal shall stay all proceedings in furtherance of the action appealed from, unless the ZEO certifies to the ZBA that a stay would cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the ZBA or by a court of record on application, on notice to the ZEO and on due cause shown.

Section 6.2 Fees

A fee of _____dollars (\$x.xx) shall be submitted to the Secretary for each appeal filed, which includes the cost to publish the notice of the hearing of the appeal.

Section 6.2 Official Date of Receipt of Appeals and Communications

Any appeal or communication shall be considered as received by the ZBA as of the date of the first regular ZBA meeting following receipt thereof by date, which shall be the Official Date of Receipt. The Secretary shall note upon such documents the date of receipt from the Village Clerk, and the Official Date of Receipt, and shall notify any applicant of this Official Date of Receipt.

Section 6.3 Hearings

The ZBA shall schedule a hearing on all appeals within 45 days (or other reasonable time) of the Official Date of Receipt of the appeal. Public notice of the hearing on a zoning appeal shall be published in the local newspaper at least five days prior to the hearing. Public notice of the hearing for an appeal of the official map shall be given at least ten days prior to the hearing.

Any party may appear in person, by agent, or by attorney. The Chairperson, or in his absence, the Vice Chairperson, may administer oaths and compel attendance of witnesses.

Section 6.4 Proceedings

- a. At any hearing of the ZBA, the following shall be the regular order of business:
 1. Roll Call
 2. The Chairperson shall state the case and read all correspondence and reports
 3. The applicant shall present his case
 4. Those opposed shall present their case
 5. Rebuttal by both sides
 6. Additional case
 7. Adjournment of hearings
 8. Call to order of the regular meeting (when applicable)

Section 6.5 Rehearing

Upon a motion initiated by any member and adopted by unanimous vote of the members present, the ZBA shall review at a rehearing any decision of the ZBA not previously reviewed. The ZBA may, upon the concurrence of all members present, reverse, modify, or annul its decision. The application and public notice for a rehearing shall be conducted similar to the original hearing.

Section 6.6 Decision of the ZBA

The ZBA shall decide on the appeal within 62 days of the hearing. This timeframe may be extended by mutual consent of the applicant and the ZBA. The decision shall be filed within five business days after the day the decision is rendered and a copy of the decision shall be mailed to the applicant.

Section 6.7 Referrals to the County Planning Board

If the property affected by the appeal meets the stipulations set forth in §239m of the General Municipal Law, the notice of the hearing, including a full statement of the appeal, shall also be sent to the County Planning Board at least five days prior to the hearing. The ZBA shall not make a decision on the appeal until a Notice of Action from the County Planning Board is received.

ARTICLE 7: OFFICIAL SIGNATURE

Section 7.1 Official Signature

The official signature of the ZBA shall be endorsed upon all papers and documents requiring the same by reason of the requirements of law or the rules and regulations of the ZBA. Such signature shall be endorsed upon such papers only pursuant to the direction of the ZBA embodied in a resolution so directing, and shall be personally signed by either the Chairperson or Secretary. In form the official signature shall be as follows:

_____ Village Zoning Board of Appeals, Otsego County, New York

By _____, Chairperson

_____, Secretary

Dated _____

ARTICLE 8: AMENDING BY-LAWS

Section 8.1 Amending By-Laws

These by-laws may be amended at any meeting of the ZBA provided that notice of said proposed amendment is given to each member in writing at least five days prior to said meeting. Said notice shall contain a precise description of the change proposed in said by-laws.

ARTICLE 9: FORMER BY-LAWS

Section 9.1 Former By-Laws

These by-laws shall supersede any and all by-laws previously adopted by this Board.

Upon motion duly made by _____ and seconded by _____, the resolution set forth about was duly approved by the following votes:

Aye: _____

Nay: _____

(Signed) _____
Secretary

Dated: _____

Amendments effective through: _____