

THEREFORE BE IT RESOLVED that these by-laws are hereby adopted by the Brookings County Planning and Zoning Commission, Brookings County, South Dakota, January 2, 2001. Amended December 4, 2018 and Amended July 7, 2020.

These by-laws shall take effect immediately.

Adopted this 7th of July 2020.



Chad Ford, Chairman
Brookings County
Planning & Zoning
Commission

ATTEST:



Robert W. Hill, Director
Brookings County
Development Department

Articles of By-Laws for Brookings County Planning Commission

By-Laws of the Brookings County Planning Commission in the State of South Dakota, as adopted January 2, 2001, Amended December 4, 2018 and Amended July 7, 2020.

Article 1: Authority

- The Brookings County Commission is authorized by SDCL 11-2-2 to appoint a commission of five or more members, the total membership of which shall always be an uneven number and at least one member of which shall be a member of the County Commission, to be known as the county planning commission.

Article 2: Jurisdiction

- The commission shall have jurisdiction in all the unincorporated area of Brookings County. This does not include any of the cities and towns in Brookings County.
- The commission will share jurisdiction with the City of Brookings in the 3 mile Joint Jurisdiction Area around the City of Brookings.
- The failure of the planning commission to act within 65 days from and after the date of official submission to it under the provisions of SDCL 11-2-24.1, shall be deemed approval, unless a longer period is granted by the board or other submitting official.

Article 3: Appointment and terms of members

- The planning commission members shall be appointed by the Brookings County Commission.
- The planning commission shall consist of one county commissioner, appointed by the county commission. The Chairperson of the Brookings County Commission may also appoint an alternate County Commissioner to serve in the event of a conflict of interest or absence on the part of the appointed commissioner and eight members, two from each of four established districts and two alternates which will be selected at-large as long as they reside in a non-municipal area of Brookings County. Residents in Joint-Jurisdictional Areas (JJA) of Brookings County are eligible as long as their residence is not in a city limits. These districts are as follows: District 1 consists of Bangor, Volga, Brookings, Lake Sinai, Oslo, and Medary Townships; District 2 consists of Laketon, Preston, Eureka, Winsor, Oakwood, and Sterling Townships; District 3 consists of Argo, Oak Lake, Lake Hendricks, Afton, Sherman, and the northern portion of Richland (Sections 3-34) Townships; District 4 consists of the southern portion of Richland (Sections 3-34), Alton, Aurora, Trenton, Parnell, and Elkton Townships.
- Planning commission members are appointed to four-year terms. These terms over-lap; the terms of two members expire in any given year.

- Because the following conditions impair the quality of decision-making and diminish the integrity of the planning commission, a member of the commission may be removed for cause. Reasons for dismissal include but are not limited to continuing unpreparedness, continuing absence from meetings (three consecutive meetings or four regular meetings within a calendar year), biased participation, and conflicts of interest.
- If a planning commission member does not complete their term, the County Commission will appoint another member from that district to complete the term.
- At the first regular meeting in January the Planning Commission shall elect a chairperson, a vice-chairperson and appoint a recording secretary who need not be a member of the Board. The recording secretary can be a member of the planning staff or an employee of the planning commission.

Article 4: Duties of planning commission officers and members

- Chairperson - presides at all hearings and meetings of the commission, assures proper order of the commission and the public in all proceedings, signs all documents of the commission, calls special meetings of the commission in accordance with the by-laws, and ensures that all actions of the commission are properly taken.
- Vice-chairperson - performs the duties and has the responsibilities of the chairperson during the absence, disqualification, or disability of the chairperson. The vice chairperson shall succeed the chairperson and serve the remainder of the term if the position is vacated before the term is completed.
- Chairperson-pro-temp - where both the chairperson and vice chair-person are absent from a hearing or meeting, the remainder of the members of the planning commission shall elect a chairperson-pro-temp from among their own number by majority vote.
- Planning commission members - General duties of the planning commission members include reading mailed materials prior to commission meetings, maintaining familiarity with the Brookings County Zoning Ordinance, visiting sites of agendized zoning items as necessary, attending planning and zoning commission meetings, and participating in the deliberation and decision-making processes of the planning commission. See also "Riggins Rules", "Being a Planning Commissioner", and "Just what is your Planning Commission's Role".

Article 5: Staff of the commission and their duties

- Zoning Administrator - advises the planning commission and County Commission on matters related to planning, development, and redevelopment, coordinates and supervises the work of all other staff and consultants, prepares all documents for presentation to the planning commission with assistance from the secretary, and assists the chairperson in the exercise of his or her duties. The zoning administrator or designee shall have the privilege to address the planning

commission during regular meetings.

- Secretary - Keeps the minutes of all meetings of the commission and other commission records, prepares the agenda for all meetings of the commission, and informs the members of the time of any special meetings, informs the commission of correspondence relating to business of the commission and attends to such correspondence, and handles funds allocated to the commission in accordance with its directives, the law and county regulations.
- Commission staff - the planning commission may appoint other staff members to carry out appropriate functions.
- Consultants - the planning commission may hire consultants to perform planning-related activities under terms of contract prepared by the zoning administrator and approved by the planning commission.
- The deputy state's attorney shall serve as legal counsel to the planning commission; prepares memoranda of law as requested by the planning commission, and reviews drafts of ordinances, resolutions, and by-laws, and their amendments.

Article 6: Meetings and Hearings of the Planning Commission

- The number of meetings per month and a schedule of meeting dates shall be established and may be altered or changed at any regularly scheduled meeting. The commission must meet at least once a month unless there are no agenda items. The regular meeting date shall be the first Tuesday of the month. The meetings shall be held at Brookings City & County Government Center, unless the notice of the meeting says otherwise. The regular meeting time is established as 8:00 p.m. from April through October and 7:00 p.m. from November through March. Meetings will be televised and offer the option of teleconference attendance when advertised as such.
- A working session is a noticed official hearing open to the public to discuss specific matters before the commission. The intent of the working session is informational; the planning commission may neither deliberate nor take a substantive vote during a working session.
- Special meetings can be held at any time and may be called by the zoning administrator, chairperson, vice chairperson, or a majority of the members of the planning commission. At least 24 hour notice should be given to each member of the commission.
- Any meeting of the commission may be continued or adjourned from day to day or for more than one day. An adjournment can only last until the next scheduled meeting.

- An executive meeting is closed to the public with topics of deliberation that are truly confidential in nature; the planning shall neither deliberate nor vote on agenda items before the commission. Executive meetings can be called on an as-needed basis. Following manners described in SDCL 1-25-2: and SDCL 9-34-19.
- A majority of the members of the commission entitled to vote shall constitute a quorum.

Article 7: General Order of Business: Any regular meeting of the Planning Commission shall follow this order.

- 1) Call To Order
- 2) Approval of minutes from the preceding meeting
- 3) Addition of items to the agenda
- 4) Declaration of intent by member of the public to address the Board during the Open Session.
- 5) Disclosure of Conflicts of Interest; Relationship(s) to Applicant; or Ex Parte Communication
- 6) Approval of Agenda
- 7) Scheduled matters

Consent items. There are items that require little or no discussion by the planning commission, public, or applicant. The planning commission may act on these items in one motion. If any concerns are expressed regarding one of these items, it will be considered by the planning commission in its regular position on the agenda.

- 8) Public hearings
- 9) Appeals
- 10) Personal appearances. Any citizen wishing to speak on a matter not scheduled on the agenda may do so during this time. The planning commission does not take immediate action on items presented under personal appearances. Time limited to 5 minutes per person.
- 11) Committee Reports from sub-groups of planning commission (if any)
- 12) Director's Report
- 13) Adjournment

Article 8: Order of a Public Hearing

- 1) Sign-in sheet, listing printed name will be available at the rear of the meeting location.
- 2) Determination of quorum.
- 3) The planning staff presents its report and makes recommendations. At this time, the planning commission may ask the staff any questions regarding its report.
- 4) Testimony of agencies related to the item.
- 5) Applicants and proponents of the item make their presentation.
- 6) Any opponents or interested citizens make presentations.
- 7) Concluding comments of the applicant in order to make additional comments or answer arguments not previously covered.
- 8) Concluding comments or questions by the planning staff.
- 9) The planning commission asks any questions it may have of the applicant, the public, or the staff.
- 10) The commission takes a vote following the public hearing.

Article 9: Form and character of motions.

- The form and character of motions shall conform to those offered within Robert's Rules of Order

Article 10: Items relating to Joint Meetings of the City and County Planning Commissions regarding the Joint Jurisdictional Area

- The city and county chairpersons shall alternate presiding over the joint meetings.
- Whichever planning commission first makes a motion for an agenda item shall also be the commission that shall second the motion. A motion shall die for lack of a second. The meeting chairperson shall recognize any member of either planning commission who wishes to speak to the motion or the second. Following discussion on the motion, the chairperson of the planning commission that made the motion shall call for a vote on the pending motion.

Article 11: Quorum and voting requirements

- Variances and appeals of the decision of the zoning officer may only be approved with a two-thirds majority of the full board voting in favor of the applicant's request or appeal.
- Conditional Uses may only be approved with a simple majority of the present and voting members of the Board of Adjustment. *

**the Board of Adjustment may only act upon Conditional Use Permits if 8 or 9 members of the Board are present and voting until July 1, 2021.*

- All members of the commission have one vote. Voting is by a verbal "yes" or "no" and shall be recorded in the minutes. The order of voting is to be rotated each month, with the chairperson voting last. No explanation of the vote is to be given at this time.
- A majority of the citizen members of the planning commission shall be required to pass a motion.
- All votes shall be taken by the Zoning Administrator in random order, except that the chairperson shall vote last.
- Abstention from voting shall not be counted in the determination of a motion but shall be recorded.
- In the event of a tie vote, the motion shall have been defeated.
- The chairperson has the same rights to propose motions and vote as any other member.
- Any member of the planning commission who feels he/she has a conflict of interest on any matter on the planning commission agenda shall voluntarily excuse him/her- self, vacate his seat, and refrain from discussion and voting on the item as a planning commissioner.

Article 12: Requirements for the submission of requests

- Applications for certain actions that require public hearings (conditional use permits and variances) need to be in the office of the zoning office supervisor by 5 PM on the 2nd Tuesday of any month in order to be placed on the following month's agenda for action. Any plans or maps needed for the public and the planning board members to study before the meeting must be included with the application. Legal notice shall be publicized in the appropriate newspaper two weeks prior to the meeting when action is proposed to take place. Failure to

comply with the application deadline will mean automatic delay of one month before action will be taken.

- The Zoning Administrator of the planning commission shall certify the completeness of submissions.
- Certified requests shall be fully noticed under requirements of law and agendaized on the planning commission calendar on the same day.
- Written testimony will be accepted until 12:00 pm (noon), on the Friday prior to the meeting or the last business day should the Friday fall on a holiday closure.
- No written testimony provided after 12:00 pm (noon), on the Friday prior to the meeting or the last business day should the Friday fall on a holiday closure will be accepted by staff, or the Board of Adjustment. (See exception below)
 - Exception: Petitions may be submitted at a meeting as testimony and admitted into the record provided the grounds for the petition are verbally presented at the meeting by the individual or entity submitting the petition in accordance with the time limits established by these By-laws or the Chairperson.
- Any request disapproved by the planning commission shall not be resubmitted for a period of six months.
- The County commission may establish a reasonable fee schedule in order to recover costs associated with notice publication, request processing, agenda, staff report and related materials (such as duplication and distribution); moreover, the planning commission may require the applicant to post signs on the affected property, in conformance with provisions of the ordinance, and to notify adjacent property owners, tenants, and community residents of the nature of the applicant's request.

Article 13: Instruments and documents of the planning commission

- The official instruments of the planning commission are the staff reports, record of notice, the agenda, the minutes, applicant notification letter, letters of agreement/assurance, and findings of facts. Where in special cases the planning commission wishes to provide advice to the legislative body or administrative agency, it may do so by resolution.
- Any and all materials submitted to the planning commission in accordance with these By-Laws and the Brookings County Zoning Ordinance regarding and item entered into the public record.
- All notices, agendas, requests, agency or consultant letters or reports, citizen

petitions, staff reports, minutes of hearings and meetings, and resolutions shall constitute the documents of the Planning Commission and shall be indexed as a matter of public record.

Article 14: Administrative calendar

- Notice for all hearings and meetings shall conform to requirements of law.
- The election of planning commission officers for the coming year shall occur at the annual meeting of the planning commission.
- The regular meeting schedule for the coming calendar year shall be determined at the annual meeting of the planning commission.
- Copies of the agenda, requests, staff reports, and related documents shall be delivered to each planning commission member no less than five working days prior to a public hearing and regular meeting.
- All maps, plats and other matters required by law are to be filed at the County Zoning Office.
- Matters referred to the commission by the County Commission shall be placed on the agenda for consideration and action at the next commission meeting.

Article 15: Conduct of the members of the planning commission

- The planning commission represents the whole community. Its principle responsibility is neither to the developer nor to the applicant. Members must be objective and make decisions that further the best interests of the whole community.
- Planning commission members must be committed to the concept of planning and zoning.
- Members must have the ability to grasp and discern the essential facts and issues of a problem and without becoming waylaid by side issues. They must have the strength to make decisions. The commission can pull together the different sides of an issue and try to reach an acceptable middle ground.
- Members of the planning commission shall take such time as to prepare themselves for hearings and meetings.
- Any citizen member of the planning commission absent from three consecutive regular meetings or any four regular meetings within a calendar year, without being excused by the chairperson, may be removed for cause.

- A planning commission member with a conflict of interest in an item before the commission must state that a conflict of interest exists and withdraw from participation in the public hearing, working session, emergency meeting, or regular meeting on that item.
- The interests of that planning commission member may be represented before the planning commission by a specifically designated representative or legal agent at the public hearing or working session, and testimony entered into the public record.
- When a member stands to gain or lose money as a result of a planning commission, the member should abstain and not participate in any presentation, discussion, or voting related to the item.
- If a planning commission member makes application to the planning and zoning commission on their own behalf, they will be permitted to make their presentation to the commission in the same manner that any other applicant would be allowed to do. However, they will abstain from discussion and voting related to the item.
- If at all possible, planning commission members who will not be able to attend the meeting should notify the planning office by 5:00 p.m. the day of the meeting or sooner.
- Planning commission members will not accept gifts from known opponents or applicants with matters pending before the board.

Article 16: Conduct of persons before the planning commission

- During all public hearings and working sessions, members of the public shall be given equitable opportunity to speak. Comments should be addressed to the item before the planning commission. Where a comment is irrelevant, inflammatory, or prejudicial, the chairperson may instruct the planning commission to "disregard" the comment, which nevertheless remains in the public record.
- During all regular and emergency meetings of the planning commission, the public may be present but shall remain silent unless specifically invited by the chairperson to provide comment.
- During all planning commission proceedings, members of the public have the obligation to remain in civil order. Any conduct which interferes with the equitable rights of another to provide comment or which interferes with the proper execution of commission affairs may be ruled by the chairperson as "out-of-order" and the offending person directed to remain silent. Once having been so directed, if a person persists in disruptive conduct, the chairperson may entertain a motion to "eject" from the planning commission hearing or meeting. Where the person fails

to comply with the successful motion to eject, the chairperson may then call upon civil authority to physically remove the individual from the chamber for the duration of hearing or deliberation on that item.

Article 17: Separability

- Should any article of the planning commission by-laws be found to be illegal, the remaining articles shall remain in effect.

Article 18: Adoption and amendment of by-laws

- By-law adoption or amendment shall be made following review by the legal counsel.
- The by-laws shall be adopted or amended upon a vote of a majority plus one of the citizen members of the planning commission.
- Adoption or amendment of by-laws takes effect immediately following a successful vote.
- The by-laws may be amended at any meeting of the planning commission provided that notice of said proposed amendment is given to each member in writing at least 2 weeks prior to the meeting.