

BY LAWS
OF THE
ZONING BOARD OF APPEALS
OF THE
TOWN OF HERMON, MAINE

INCLUDES CHANGES TO 6/5/91

ARTICLE 1 GENERAL

SECTION 1.1 AUTHORITY

- 1.1.1 These bylaws have been prepared in accordance with the provisions of the Maine Revised Statutes Annotated Title 30, Chapter 213, Section 2411, Board of Appeals.
- 1.1.2 These bylaws shall be known and may be cited as "Bylaws of the Board of Appeals of the Town of Hermon, Maine."

SECTION 1.2 PURPOSE

- 1.2.1 The Purpose of these bylaws are:
1. To provide the Board with a clear and specific legal foundation to clarify its policies, objectives and methods.
 2. To provide a record for Board members to use in keeping their activities consistent and legal.
 3. To provide a record for the Board to inform the Townspeople how the Board operates.

SECTION 1.3 EFFECTIVE DATE

- 1.3.1 These bylaws shall be in effect immediately upon their final adoption by the Town of Hermon Board of Appeals.
- 1.3.2 The effective date of these bylaws is 1975.

SECTION 1.4 ADOPTION AND AMENDMENTS

- 1.4.1 These bylaws shall be adopted by the Board and may be amended, supplemented or expanded by the Board by the following procedure:
- 1.4.1.1 The Board shall present the proposed bylaws and/or proposed change or amendment to the Municipal Officers at least thirty days before the Board meeting at which said bylaws or amendment thereto shall be considered for final adoption.
- 1.4.1.2 The Municipal Officers shall investigate the bylaws or amendment thereto to such extent deemed appropriate and submit their general opinion for consideration by the Board.
- 1.4.1.3 These bylaws may be adopted, or changes and/or an amendment may be adopted, by a majority vote of the Board at two separate meetings approximately thirty days apart.

SECTION 1.5 JURISDICTION

- 1.5.1 The provisions of these bylaws pertain only to the Town of Hermon Board of Appeals.
- 1.5.2 The provisions of these bylaws shall not be construed to abrogate or annul the provisions of other ordinances or regulations in effect in the Town of Hermon.
- 1.5.3 The provisions of these bylaws represent a third level of procedural rules. The first level of rules shall be the State of Maine Constitution and Maine Revised Statutes Annotated. The second level of rules shall be the Town of Hermon Maine Charter, Ordinances and Regulations. These bylaws are not intended to conflict with either of the first two levels of rules.

SECTION 1.6 SEVERABILITY

- 1.6.1 The invalidity of any section or provision of these bylaws shall not be held to invalidate any other section or provision of these bylaws.

SECTION 1.7 WAIVER OF RULES

- 1.7.1 In the case of extenuating circumstances, the Board may waive any provision of these bylaws by a unanimous vote.

SECTION 1.8 PUBLIC RECORD

- 1.8.1 These bylaws shall be filed at the Town of Hermon Municipal Office Building and shall be a public record.

ARTICLE 2 BOARD OF APPEALS

SECTION 2.1 APPOINTMENTS

- 2.1.1 The Municipal Officers shall appoint all members and associate members of the Board.
- 2.1.2 All newly appointed members and associate members of the Board shall be sworn into office by the Town Clerk, a Notary Public or a Justice of Peace.

SECTION 2.2 MEMBERSHIP

- 2.2.1 The Board shall consist of five members and two associate members.

- 2.2.2 The term of office of a member shall be 3 years. Initial appointments shall be made for 1, 2, and 3 years respectively.
- 2.2.3 The associate member(s) shall be appointed annually. (Amendment Effective 6/14/85)
- 2.2.4 Members and associate members shall be at least 18 years of age, shall be qualified voters of the Town of Hermon, and shall be legal residents of the Town of Hermon during their term of office.
- 2.2.5 A municipal officer, or a spouse of a municipal officer, shall not serve as a member or associate member.
- 2.2.6 When a member is unable to act because of interest, physical incapacity, absence, or any other reason satisfactory to the Chairman, the Chairman shall designate an associate member to act in his stead. When there is a permanent vacancy, the Municipal Officers shall appoint a person to serve the unexpired term.
- 2.2.7 A Board member shall forfeit his office if he fails to attend three consecutive posted meetings without being excused by the Board.

SECTION 2.3 COMPENSATION

- 2.3.1 Compensation of the members and associate members shall be established by the Town Council.

SECTION 2.4 CHAIRMAN

- 2.4.1 The Board shall elect annually by a majority vote, one of its members as Chairman for a one year term.
- 2.4.2 The annual election of the Chairman and Chairman protempore shall be held during a meeting in July of each year.
- 2.4.3 The term of office of the Chairman shall commence upon election by the Board members.
- 2.4.4 A member may not serve more than two consecutive years as Chairman.
- 2.4.5 The Chairman protempore shall exercise the powers of Chairman during the absence or disability of the Chairman.

SECTION 2.5 SECRETARY

- 2.5.1 The Board shall elect annually by a majority vote one of its members as secretary for one year term.

- 2.5.2 The annual election of the Secretary and Secretary protempore shall be held during a meeting of the Board in July of each year.
- 2.5.3 The term of office of the Secretary shall commence upon election by the Board members.
- 2.5.4 The Secretary protempore shall exercise the powers of Secretary during the absence or disability of the Secretary.

SECTION 2.6 RESPONSIBILITIES OF MEMBERSHIP

- 2.6.1 The Chairman shall be the official spokesman of the Board and shall preside at all meetings.
- 2.6.2 The Secretary shall be responsible for maintaining a permanent record of all Board meetings and correspondence. All records prepared and maintained by the Secretary are deemed public. These records shall be filed in the Town Clerk's Office and shall be available for inspection at reasonable times.
- 2.6.3 A member is expected to attend all Board meetings and participate in its proceedings.
- 2.6.4 An associate member is expected to attend all Board meetings and participate in its proceedings. An associate member may vote only designated by the Chairman to act for a member.
- 2.6.5 A member or associate member may be dismissed by the Municipal Officers before expiration of his term for a reasonable cause.
- 2.6.6 A member of associate member shall forfeit his office upon conviction of a felony or crimes of moral turpitude, or if he lacks any of the prescribed qualifications.
- 2.6.7 Any question of whether a particular issue involves a conflict of interest sufficient to disqualify a member from voting thereon shall be decided by a majority vote of the members, except the member who is being challenged.

SECTION 2.7 VACANCIES

- 2.7.1 The office of a member or associate member shall become vacant upon his death, resignation, forfeiture or dismissal.

ARTICLE 3 BOARD OF APPEALS MEETINGS

SECTION 3.1 TIME OF MEETING

- 3.1.1 Regular meetings shall be held on the Second Tuesday of each month in the evening at the Municipal Building unless otherwise designated.
- 3.1.2 Regular and special meetings shall be called by the Chairman, or Code Enforcement Officer. Notice of at least forty-eight hours prior to the time set for a meeting shall be given each member and associate member.
- 3.1.3 The date of any regular meeting may be changed by a unanimous vote of the Board at the previous meeting provided that the change in date allows for one regular meeting in each month.
- 3.1.4 Cancellation and/or postponement of meeting shall be the responsibility of the Chairman.

SECTION 3.2 CONDUCT OF MEETINGS

- 3.2.1 All meetings shall be open to the public except for executive sessions.
- 3.2.2 A quorum shall consist of 3 members or associate members for the transaction of all official business.
- 3.2.3 All decisions shall be decided by a concurring vote of at least four members of the Board. (Amendment Effective 9/13/85)
- 3.2.4 An agenda for each meeting shall be prepared by the Chairman. The order of business shall be substantially as follows:
 - 1. Open meeting;
 - 2. Statement of Business;
 - 3. Public Hearing (if any); and
 - 4. Action by the Board
- 3.2.5 Every decision or determination of the Board shall be filed as part of the minutes of the meeting.
- 3.2.6 No determination of the Board shall be made except in a duly called regular or special meeting.

SECTION 3.3 PUBLIC HEARINGS

- 3.3.1 The Board shall hold a public hearing the 2nd, Tues. of each month and at other times it deems necessary.
- 3.3.2 Public Hearings shall be advertised in a newspaper of general local circulation if possible and 3 public

places in Town at least 7 days prior to and not more than fourteen days prior to the date of the said hearing.

- 3.3.3 The advertisement of the hearing shall state the general nature and location of the question involved.
- 3.3.4 During a public hearing the Board may receive any oral or documentary evidence but shall provide as a matter of policy for the exclusion of irrelevant, immaterial or unduly repetitious evidence. Every party shall have the right to present his case or defense by oral or documentary evidence, to submit rebuttal evidence and to conduct such cross-examination as may be required for a full and true disclosure of the facts.
- 3.3.5 Any person may appear in person or by agent at the hearing.
- 3.3.6 The applicant involved with the hearing shall appear in person or by agent at the hearing.
- 3.3.7 Orderly procedure shall be maintained. The Board Chairman shall preside and all persons shall abide by the order of the Chairman.
- 3.3.8 The order of business at the hearing shall be substantially as follows:
 - 1. The Chairman shall give a statement of the question.
 - 2. Arguments in support of the question shall be heard.
 - 3. Arguments opposed to the question shall be heard.

In order to maintain orderly procedure, each side of the argument shall proceed without interruption by the other.

- 3.3.9 Postponement of a public hearing shall be the responsibility of the Chairman only. Postponement of a hearing shall be done only in case of an emergency.

SECTION 3.4 PROCEDURES

- 3.4.1 The Board after public hearing may affirm or reverse the decision of the Code Enforcement Officer.
- 3.4.2 Notice of any decision shall be mailed or hand delivered to the petitioner, his representative or agent within 7 days of their decision.

3.4.3 An appeal may be taken within 30 days after the decision is rendered by any party to the Superior Court from any order, relief or denial.

ORD
ZBA

AMENDMENTS TO THE ZONING BOARD OF APPEALS BY-LAWS

Voted upon unanimously at meeting of Zoning Board of Appeals to make the following amendment to the By-Laws of the Zoning Board of Appeals:

"2.2.3...The term of office of an associate member shall be three (3) years."

AMEND TO READ: 2.2.3...The associate member(s) shall be appointed annually."

EFFECTIVE DATE: June 14, 1985

Voted upon unanimously at meeting of Zoning Board of Appeals to make the following amendment to the By-Laws of the Zoning Board of Appeals:

"3.2.3...All decisions shall be decided by a majority vote of those present..."

AMEND TO READ: 3.2.3...All decisions shall be decided by a concurring vote of at least four (4) members of the Board.

EFFECTIVE DATE: September 13, 1985

233. **Zoning Board By-Laws Amendment; Approve:** Ms. Ruth stated that the annual election of the Chairman and Chairman protempore should be held during a meeting in July of each year instead of in May. This will bring the ZBA's by-laws in line with other Town Elections and is appropriate due to the Town's appointment process.

Guy Brown motioned to approve the ZBA's requested change of annual elections in Section 2.4 from April to July. The motion was seconded by Anne Freeman. Chairperson Peggy Elmer accepted the motion unless doubted. Motion accepted.

225. **Town Lot Landscaping/Parking Plan; Approve:** Ms. Ruth stated that it was mentioned in a past Council meeting that the front of the Building facing Billings Road be used as a parking area. She also indicated that the Hermon Garden Club is all set to begin landscaping in that area with Flowering Crab Trees, Flowers, etc., however, before the work is begun she would like to know if it is still being considered as a parking area.

Since the Council is not considering such action anymore, Ralph Carr motioned to approve the landscaping in front of the Municipal Building facing the Billings Road. The motion was seconded by Vice-Chairperson Anne Smith. Chairperson Peggy Elmer accepted the motion unless doubted. Motion accepted.

V. STATUS REPORT AND OTHER ITEMS

Status Report: There were no questions/comments on the status report.

Other Items: (#125) Paving Bids: Ms. Ruth stated that she has talked with Lane's Construction and they have come down on the tonnage cost to \$26.55. This brings their bid down to \$195,567.30 where it was originally \$212,877.40. Ms. Ruth also stated that the Town only has \$95,000.00 and suggested that she start talking with other companies. Walter Munn, Sr. stated that he will talk with Lane's again. He had heard that there was talk that they wanted to move from Bangor to Odlin Road.

(#226) Jackson Beach RE: State's Plans: Ms. Ruth stated that she had received a call from the State Parks & Recreation Office indicating that, due to budget cuts, the beach was going to be closed. He was asking if the Town could help find a way to keep the beach open. Ms. Ruth also stated that should the Town decide to assist in this, the liability which the Town could be at risk for would need to be reviewed.

It was suggested that this item be placed on another agenda for discussion.