

**RULES AND BY-LAWS OF THE  
SAWYER COUNTY ZONING COMMITTEE**

**Amended:** June 17, 2004, September 16, 2005, August 17, 2007, October 17, 2008, March 19, 2009, November 20, 2009 and June 20, 2013.

**SECTION 1.0 GENERAL PROVISIONS**

**1.1 Authority**

This Committee has been established pursuant to Section 59.69 of the Wisconsin Statutes, as amended, and assumes thereby, all responsibilities, duties, and powers as provided therein and by related statutes. A copy of these rules shall be filed with the County Clerk to be kept as a permanent public record. Copies of the rules shall also be available to the public. These rules are supplementary to the provisions of the zoning ordinances of the County as they relate to the procedures of the Zoning Committee.

**1.2 Title**

The official title of the Committee is, The Sawyer County Zoning Committee.

**1.3 Membership**

The Committee shall consist of five members and one alternate member from the County Board of Supervisors. Such members shall be from the unincorporated areas of Sawyer County and no two members shall represent any one District.

**1.4 Conflicts of Interest**

Any member of the Committee, who has any direct or indirect interest, personal or financial, in a matter before the Committee shall not vote thereon or participate in the deliberation of such matter at any meeting or hearing at which said matter is under consideration. A disqualifying conflict of interest shall be deemed to exist when: (1) the Committee member is the applicant or spouse of the applicant, or is related to the applicant within the third degree of consanguinity, or is the husband or wife of someone so related; or (2) the applicant is the employer, employee or partner of the member or is a corporation in which the member is a major shareholder or has a major financial interest; or (3) the member owns property within 300 feet of the property which is the subject of the application.

**1.5 Limitations**

Nothing herein shall be construed to give or grant to the Committee, the power or authority to hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement of Sections 59.69, 59.692, 87.30 or 281.31, Wisconsin Statutes or of any zoning ordinance adopted pursuant thereto; or to authorize such variance from the terms of the zoning ordinance, which authority is reserved to the County Board of Appeals/Adjustment.

## **1.6 Committee's Office**

The office of the Committee shall be located at the Office of the Zoning Administrator. All records of the Committee shall be available for public inspection during office hours, 8:00 AM to 4:00 PM, Monday through Friday, except for legal holidays.

## **SECTION 2.0 OFFICERS AND DUTIES**

### **2.1 Officers**

The Committee shall elect a Chairperson, if one has not been appointed by the County Board, Vice-chairperson, and Secretary from among its members. The Committee may, at any meeting or hearing, elect from the membership the replacement of an officer whom for whatever reason is unable to perform the duties of his office.

### **2.2 Duties of Officers**

**2.21** The Chairperson, if present, otherwise the Vice-chairperson, shall preside over and direct the conduct of all meetings and hearings of the Committee and may administer oaths and compel the attendance of witnesses. The Chairperson shall report on all official transactions that have not otherwise come to the attention of the Committee. The chairperson shall, subject to these rules and further instructions from the Committee, direct the official business of the Committee, supervise the work of the Committee and request necessary help when required. The Chairperson or the presiding officer, subject to these rules, shall decide all points of procedure or order, unless otherwise directed by a majority of the members in attendance on motion duly made and approved.

**2.22** The Secretary shall record and maintain permanent minutes of the Committee's proceedings, showing the vote of each member upon every question, or if absent or failing to vote, indicating that fact; shall keep records, of its official actions; shall summarize accurately the testimony of those appearing before the Committee and keep a verbatim recording of all hearings; shall record the names and addresses of all persons appearing before the Committee in person, or by attorney; and shall, subject to the Committee and Chairperson conduct the correspondence of the Committee and have published in a local newspaper, public notices of meetings or hearings as required by law; shall file said minutes and records in the office of the Committee which minutes and records shall be public record; and shall be the custodian of the files of the Committee and keep all records. County staff shall assist the Secretary of the Committee in performing these clerical duties.

**2.23** The County Corporation Counsel, or his/her designated representative, shall be the legal counsel for the Committee. Advice of counsel shall be received and entered in the minutes before disposition of any question of law or matter requiring legal interpretation or advice.

## **SECTION 3.0 MEETINGS**

### **3.1 Time: How Called**

Meetings and hearings of the Committee shall be held, or may be cancelled at the call of the Chair and at such other time as the Committee may determine, provided that all Committee members are notified by the Secretary at least 48 hours prior to such meeting. All meetings shall be open to the public and in accordance with the Open Meeting Law, except the Committee may call a closed session in accordance with Section 19.85, Wisconsin Statutes. Hearings shall be advertised as required by law and these rules.

### **3.2 Quorum**

A quorum shall consist of a majority of all members of the Committee and no action may be taken except by a majority vote of such quorum except a lesser number may meet and adjourn any meeting duly called and noticed to a time certain.

### **3.3 Order of Business**

The Secretary shall prepare an agenda for each Committee meeting, listing the matters of business at all meetings that do not have public hearings in the following order:

1. Call to order and roll call.
2. Statement by the presiding officer concerning notice in accordance with the Wisconsin Open Meeting Law.
3. Unfinished business.
4. New business.
5. Communications and miscellaneous.
6. Other business that may come before the Committee as permitted by law.
7. Adjournment.

The Secretary shall prepare an agenda for each Committee meeting that has public hearings, listing the matters of business in the following order:

1. Call to Order and roll call.
2. Statement by the presiding officer concerning notice in accordance with the Open Meeting Law.
3. Hearings.
4. Unfinished business.
5. New business.
6. Communications and miscellaneous.
7. Other business that may come before the Committee as permitted by law.
8. Adjournment.

The order of business at any meeting or hearing may be varied from the preceding by consent of the members present.

### **3.4 Robert's Rules of Order**

Robert's Rules of Order may govern actions of the Committee and conduct of the meetings if not covered by these rules and regulations of the county zoning ordinance.

## **SECTION 4.0 POWERS AND DUTIES OF THE COMMITTEE**

### **4.1 General Powers**

The powers and duties of the Zoning Committee are identified in Section 59.97 and 236.45, Wisconsin Statutes, and in the various zoning ordinances that have been adopted by the County. The Committee shall have the following general powers:

4.11 Drafting of zoning, subdivision, and sanitation ordinances.

4.12 Hear and review proposed ordinance amendments.

4.13 Hear and review proposed zone district amendments.

4.14 Hear, review, and decide land divisions pursuant to Chapter 236.45, Wisconsin Statutes; NR 115, Wisconsin Administrative Code; and the Subdivision Control Ordinance.

4.15 Hear and decide applications for conditional uses that are authorized and listed within the zoning ordinance.

4.16 Oversee the administering of ordinances.

4.17 Oversee the operation of the zoning staff.

4.18 Hear Wisconsin Fund Appeals.

## **SECTION 5.0 APPLICATIONS AND PROCEDURES**

### **5.1 Who May File**

Applications to the Committee shall be filed with the Zoning Administrator, by the applicant, his/her agent or attorney. Petitions for map amendments may be filed by a property owner, a member of the County Board, a member of the Zoning Committee, or by a Town Board.

### **5.2 Copies to be sent**

The Zoning Administrator shall transmit copies of the application or petition as follows: Original to the Zoning Committee; a copy to the applicant; a copy to the Zoning Administrator's files; a copy to the Clerk of the Town Board, City Council, or Village Council, as may be applicable. In the case of applications or petitions affecting property within the Wetland/shoreland One District, one copy shall also be sent to the Department of Natural Resources.

### **5.3 Required Information**

Failure of the applicant to supply the required information within 30 days of filing an application or petition may be considered by the Committee as a failure to comply with application procedure and the case may be dismissed for failure of timely filing. Applications or petitions shall be made on forms provided by the Zoning Administrator. Any communication except on prescribed forms shall be deemed a mere notice of intention to file and shall not be deemed a filing to comply with the requirements of timely filing.

#### **5.4 Reasons to be Stated**

The reason for the application or petition must be stated and the reasons why the request should be granted must also be stated by the applicant: (a) If a change in zone district is requested, facts should be stated upon which findings may be made by the Committee to justify the granting of the change in zone district. (b) If a conditional use is requested, facts should be stated upon which findings may be made by the Committee to justify granting the conditional use permit.

#### **5.5 Dismissal of Case**

The Committee may refuse to hear a case upon the failure of the applicant to supply the required information called for on the forms and as further reasonably required by the Zoning Administrator.

#### **5.6 Owner's Consent**

The forms shall bear the signature of the owner of the property affected or shall be accompanied by a letter from the owner acknowledging the filing of the form.

#### **5.7 Time for Hearing**

Each application shall be considered by the Committee at its next meeting, provided there is sufficient time between the date of the filing and the date of the meeting for the required hearing notices to be published.

#### **5.8 Notice of Hearing**

5.81 The secretary of the Committee shall give, or cause to be given, notice of each hearing as required by law and these rules. This shall include at least the following: (1) publication of a Class 2 hearing notice in a newspaper of general circulation; (2) mailing a notice of the hearing to the applicant, and where required to the area office of the Department of Natural Resources at least 10 days before the hearing; (3) mailing a notice of the hearing to the Town Clerk and Town Chairman of the Town Board of the Town in which the property is located; (4) mailing a notice of the hearing to the City Clerk or Village Clerk and City Mayor or Village President when the property affected lies within 1 1/2 air miles of the closest city or village limits, no less than one week before the date of the hearing; (5) mailing a notice to the County Board District Representative(s) of the district in which the property is located at least 10 days before the hearing.

5.82 The application for a change in zone district or a conditional use shall be sent to the Town Clerk of the Town in which the property is located, and when applicable to the City Clerk or Village Clerk. Such application shall be returned to the Zoning Administration indicating whether the municipality approved, denied, or tabled the application and such application shall provide a form for findings of fact by the municipality. The decision shall be signed by the Board members and attested by the Clerk. The decision of the municipality may be considered by the Zoning Committee in granting or denying the change or use requested.

5.83 When a hearing involves an application or petition for a change in zone district or a conditional use, an opinion letter shall be sent to owners of all lands, with the County, within 300 feet of the perimeter of the property affected. Such opinion letter shall include the information required for a hearing notice and provide the recipient the opportunity to indicate whether he/they are in favor or opposed to the application and provide an area for additional comments. Comments from surrounding property owners may be considered by the Committee in granting or denying the change or conditional use requested. A signature(s) is required on the form in order that the comments receive consideration by the Committee. The failure of each opinion letter to reach any property owner shall not invalidate any decision made on a change in zone district or conditional use. Such opinion letter shall be mailed at least 10 days before the hearing.

#### 5.9 Representative Filing

An applicant may file an application or petition personally or by an agent or attorney.

#### 5.10 Fee

The applicant shall pay such fees as may be from time to time established by the County Board, which amount shall be deposited with the Zoning Administrator for each application filed before a public hearing will be scheduled.

### **SECTION 6.0 PROCEEDINGS OF HEARINGS**

#### 6.1 Appearances, Adjournments

At the time of the hearing, the applicant may appear in his own behalf or be represented by his counsel or agent. A motion passed to table a request or a recess or adjournment of a hearing, made at a noticed hearing date, to a time and place certain is adequate notice to the members and the public of a new hearing date.

#### 6.2 Witnesses

The Chairperson, or Vice-chairperson, may compel the attendance of witnesses and may require those wishing to testify to state their names and interests in the matter before the Committee. Testimony may be taken under oath administered by the Chairperson or Vice-chairperson.

#### 6.3 Order of Hearings

Hearings on cases shall normally follow this order:

1. Reading of the application or petition.
2. Determination of jurisdiction, if requested.
3. Submission of the file, which may include: The Town Board Decision, City Council decision, or Village Council decision; maps or surveys; inspection reports; opinion letters; letters of correspondence; soil tests results; plot plans or sketches; and photographs.
4. Applicant's statements and presentation of evidence.
5. Others in support of applicant make statements and present evidence.
6. Objector's statements and presentation of evidence.
7. Staff recommendations.

8. Questions by Committee members.
9. Rebuttals as permitted by the Committee.
10. Deliberations and decision by the Committee.

#### **6.4 Preliminary Matters**

Following the reading of the application or petition, the Committee may hear arguments on the question of jurisdiction and request that briefs be filed on the point. The Committee may proceed with the hearing and the taking of testimony in any event and reserve its determination on a jurisdictional question until after hearing all testimony and render a decision on the merits as if it had jurisdiction. The Committee may make an immediate determination and close the hearing upon finding that it lacks jurisdiction. If the Committee determines by motion that it lacks jurisdiction, the secretary shall record the decision as a vote to deny the request.

#### **6.5 Parties Not to Interrupt**

Orderly procedure requires that each side shall proceed without interruption by the other; that all arguments and pleading shall be addressed to the Committee and that there be no questioning or arguments between individuals.

#### **6.6 Questions and Debate**

During the hearing, the Chairperson, Committee members and members of the staff may ask questions and make appropriate comments pertinent to the case; however, no member should debate or argue an issue with the applicant. The Chairperson and Committee members may direct any question to the applicant or to any person speaking in order to bring out all relevant facts, circumstances and conditions affecting the case and may call for questions from members of the staff.

#### **6.7 Presentation of Evidence**

All supporting evidence for and against each case shall be presented to the assembled Committee. The applicant shall be responsible for the presentation of all information supporting his/her case. The Committee may take administrative notice of the ordinances of the County and laws of the State of Wisconsin and of other relevant facts not reasonably subject to dispute on its own motion or motion of a party.

#### **6.8 Additional Evidence**

The Committee may take a case under advisement for later consideration and determination, or may table action whenever it concludes that additional evidence is needed or future study is required.

#### **6.9 Rules of Evidence**

The Committee shall not be bound by court rules of evidence, but it may exclude irrelevant, immaterial, incompetent, unduly argumentative or repetitious testimony or evidence.

#### **6.10 Chairperson to Rule on Admissibility**

The Chairperson shall rule on all questions relating to the admissibility of evidence, which may be overruled by a majority of the Committee present.

#### **6.11 Interested Person May Testify**

Persons having an interest in the case may attend the hearing and may request an opportunity to testify provided they identify themselves.

#### **6.12 Record of Hearing**

All proceedings at a hearing shall be tape recorded. The secretary shall prepare a summary of motions, witnesses, appearances, roll call, votes, and all other matters constituting the substance of the proceedings. Verbatim transcripts of recorded proceedings shall not be prepared unless ordered by the circuit court by a writ of certiorari. The proceedings shall become part of the written record filed in the office of the Committee and open to the public.

#### **6.13 Adjournments**

When all applications or petitions cannot be disposed of on the day set, the Committee may adjourn from day to day or to a day certain, as it may order, and such adjourned day shall be construed as a continuance of the hearing. Notice of such adjournment shall be given to the absent members of the Committee.

#### **6.14 Withdrawal of Applications**

An applicant may withdraw an application or petition at any time prior to the decision, but a pending motion to grant or deny the application shall have precedence over withdrawal. Withdrawal of the application or petition shall not entitle the applicant to remission of the filing fee.

### **SECTION 7.0 DECISIONS OF THE COMMITTEE**

#### **7.1 Majority Vote Required**

The concurring vote of a majority of the quorum of the members present shall be necessary to approve, deny, or table any matter upon which it is required to under any zoning ordinance.

#### **7.2 Decisions to be written**

All decisions shall be in writing and contain the facts upon which the decision is based.

#### **7.3 Decisions to be mailed**

Within 30 days of the close of the hearing to which the decision relates, written copies of such decision shall be mailed to the applicant, the local municipality, and when applicable to the Department of Natural Resources. The approval or granting by the Committee is deemed to constitute an order to the zoning official to issue a permit. A denial of the application or petition by the Committee is deemed to be order to deny the permit.

#### **7.4 Findings**

In acting on any matters before it, the Committee shall make findings supporting its action.

#### **7.5 Disqualification: Motion**

A member may disqualify himself from voting whenever the member has a personal or monetary interest in the property concerning the case, will be directly affected by the decision of the Committee, has or believes he has a conflict of interest under State statutes. A member may also disqualify himself whenever the applicant or the applicant's agent has sought to influence the vote of the member of his case outside the public hearing. All decisions of the Committee shall be made at a public hearing by motion made, seconded, and passed. A motion which decides the issue shall be in the form of a finding of fact and shall state the reasons for the findings by the Committee. If conditions are imposed in the granting of a conditional use, such conditions shall be included in the motion.

#### **7.6 Decision to Relate to Specific Property**

The decision of the Committee shall be deemed as applying to the property rather than to the individual and is valid only for the specific premises in the case and is not transferable to other properties.

#### **7.7 Informal Advice Not Binding**

No informal request for advice or on moot questions need be given by the Committee. Any advice, opinion, or information given by any Committee member, or any other official or employee of the County shall not be binding on the Committee.

#### **7.8 Cases to be Determined Individually**

No action of the Committee shall set a binding precedent. Each case shall be decided upon its merits and upon the attendant circumstances, provided the Committee shall not act arbitrarily or capriciously.

#### **7.9 Order for Permit Valid For One Year**

An order or approval by the Committee requiring a zoning official to issue a permit shall become void after one year unless the applicant shall have obtained such permit from the zoning official within such time, provided, that the time may be extended when so specified by the Committee.

#### **7.10 Decisions to be filed with State**

Copies of decisions on conditional uses and map or text amendments within the shorelands or affecting the Wetland/shoreland District shall be sent to the appropriate district office of the Department of Natural Resources.

#### **7.11 Appeals of Committee Decision**

Any person or persons jointly or severally aggrieved by a conditional use, special use or any other decision in which the Committee is the decision making authority, or any taxpayer, or any officer, department board, or bureau of the County may commence an action with the Sawyer County Board of Appeals to review the Committee's decision in whole or in part, within thirty (30) days of the date following the date of the signing of the Committee's decision letter. The date following the date of the signing of the Committee's decision letter is the first day of the thirty (30) day appeal filing period.

### **SECTION 8.0 REFILING AND REHEARINGS**

#### **8.1 One Year Refiling Rule**

No matter which has been acted upon by the Committee concerning the same or part of the same property shall be considered again within one (1) year from the date of the action, except as hereinafter provided.

#### **8.2 Reopenings and Rehearings Limited**

The Committee may not reopen any case upon which a previous hearing has been held, except to correct a manifest error.

#### **8.3 Closure of Case**

A case will be considered as heard and closed at such time as the Committee approves or rejects an application or request by motion or when it is considered closed by operation of these rules.

#### **8.4 Reconsideration on Committee Motion**

A decision of the Committee may be reconsidered: (a) by motion to reconsider made at the same meeting which may be immediately disposed of without further notice, or (b) upon direction of the County Board of Supervisors, in which event, the matter shall be placed on the calendar for a subsequent hearing and a new notice given without additional fee.

#### **8.5 Reconsideration Tolls Appeal Period**

The filing of a motion for reconsideration shall stop the running of the 30 day period in which a petition to the Sawyer County Board of Appeals must be made. The 30 day period will run in such event from the date a decision not to reconsider is made by the Committee, or if the matter is reconsidered, from the date the decision on the reconsidered matter is filed in the Committee's office.

#### **8.6 Procedures for Reconsideration**

A simple majority vote shall be sufficient to reconsider a previous decision. If reconsideration is refused to an interested party who has requested reconsideration, the Committee shall enter on the minutes the basis of the request, the reason why it was refused and the vote of the Committee members thereon.

### **SECTION 9.0 AMENDMENT OF RULES**

These rules may be changed or amended from time to time by a majority vote of the Zoning Committee at any regular or special meeting.

### **SECTION 10.0 REPORT**

The Zoning Committee shall submit a report of its activities to the Sawyer County Board of Supervisors. On map and text amendments to be ratified by the County Board, there shall be no less than a ten (10) day waiting period between the date the Committee decision was made and the date of the County Board meeting.

### **SECTION 11.0 STAFF**

The Zoning Committee may utilize the advice and assistance of the County employees and may delegate administrative tasks to such employees as authorized by the County Board of Supervisors.

### **SECTION 12.0 DEFINITIONS**

Certain terms or words used herein are defined as follows:

- (1) Aggrieved person: any person whose substantial interests are adversely affected by a determination. Aggrieved person may file appeals or appear in opposition to an application.
- (2) Briefs: A concise and brief statement expounding on the legal issues and the authorities.
- (3) Certiorari: A written order from a higher court to a lower court demanding a transcript of the proceedings of a case for review. Review of the Committee's decision is by the circuit court in an action of certiorari. The records will be judged on the evidence presented and the procedures followed by the Committee in hearing the case and reaching decision.
- (4) Executive (closed) session: A session closed to the public based on a majority vote of the members for the purpose of conferring with legal counsel.
- (5) Findings of fact: A statement of the Committee's rationale behind the decision and facts that support the decision.
- (6) Hearing de novo: To hear anew. A hearing de novo may be granted by the court if the decision was based on insufficient evidence or the findings of fact are insufficiently recorded.
- (7) Moot question: A hypothetical question. A question which does not rest upon existing facts or rights; a question as to which in reality there is no actual controversy existing.

The foregoing rules and regulations are hereby adopted by the Zoning Committee for the County of Sawyer on April 19, 1985.

**THE SAWYER COUNTY ZONING COMMITTEE**

**/s/ James H. Haugen, Chairman**

**/s/ Donald Landgraf**

**/s/ William Leonard, Sr.**

**Resolution 16-85 adopted on June 20, 1985 by the Sawyer County Board of Supervisors to adopt said rules and regulations for the Sawyer County Zoning Committee.**

**/s/ Wayne Somerville  
County Board Chairman**

**/s/ Frank Duffy  
County Clerk**