

**CITY OF BEAUFORT  
ZONING BOARD OF APPEALS  
RULES OF PROCEDURE**

---

**ARTICLE I. ORGANIZATION**

**Section 1. Rules.**

These rules of procedure are adopted pursuant to S.C. Code § 6-29-790 for the City of Beaufort Board of Zoning Appeals which consists of five members appointed by City Council.

**Section 2. Officers.**

The officers of the Board shall be a chairman and vice-chairman elected for one year terms at the first meeting of the Board in each fiscal year. The Board can appoint a member of the staff of the City as secretary of the Board.

**Section 3. Chairman.**

The chairman shall be a voting member of the Board and shall:

- a. Call meeting of the Board;
- b. Preside at meetings and hearings and swear in witnesses;
- c. Act as spokesperson for the Board;
- d. Sign documents for the Board;
- e. Have orders of the Board served on parties; and
- f. Perform other duties approved by the Board.

**Section 4. Vice-Chairman.**

The vice-chairman shall exercise the duties of the chairman in the absence, disability, or disqualification of the chairman. In the absence of the chairman and vice-chairman, an acting chairman shall be elected by the members present if a quorum of the board is present.

**Section 5. Secretary.**

The secretary shall:

- a. Provide and publish notice of appeals and meetings;
- b. Assist the chairman in preparation of agenda;
- c. Distribute notices for the posting of property and verify that property involved in appeals for variances or special exceptions is properly posted;

- d. Keep recordings and minutes of meetings and hearings;
- e. Maintain Board records as public records;
- f. Serve Board decisions on parties;
- g. Attend to Board correspondence; and
- h. Perform other duties normally carried out by a secretary.

## **ARTICLE II. MEETINGS**

### **Section 1. Time and Place.**

An annual schedule of regular meetings shall be ~~adopted~~, published and ~~posted at~~ by the Office Department of Planning and Development Services in December of each year. The schedule of meetings shall be available at the Department of Planning and Development Services and shall be posted on the City's web site. Meetings shall be held at the place stated in the notices, and shall be open to the public. Special meetings may be called by the chairman upon 24 hours notice, posted and delivered to all members and local news media. Reasons for calling a special meeting include: 1. an owner discovers an unforeseen problem during the course of construction which if not immediately resolved, will effectively stop construction on the site; and 2. there is an immediate public health and safety issue that must be addressed. A request for a special meeting shall be presented in writing to the Department of Planning and Development Services which will then take the relevant information and inform the chairman who will decide if the request has merit.

### **Section 2. Agenda.**

A written agenda shall be furnished by the secretary to each member of the Board and the news media, and shall be posted at least five (5) calendar days prior to each regular meeting, and at least twenty four (24) hours prior to a special meeting. Items may be removed from the agenda or postponed at a meeting by majority vote. Applicants or their designated representatives must be present at the meeting for a case to be heard.

### **Section 3. Quorum.**

A majority of the members of the Board shall constitute a quorum. A quorum shall be present before any business is conducted other than rescheduling the meeting.

### **Section 4. Rules of Order.**

Robert's Rules of Order shall govern the conduct of meetings except as otherwise provided by these Rules of Procedure.

### **Section 5. Ex Parte Communications.**

There shall be no communication between members and applicants, or members and the public, outside of meetings. A member who has had such ex parte communications with an applicant or the general public, shall disclose this fact before the hearing on the matter begins. A member who has had ex parte communications may be disqualified from voting on the appeal.

## **ARTICLE III. APPEALS PROCEDURE**

### **Section 1. Form of Appeal.**

Appeals from administrative decisions, applications for variances, and applications for special exceptions shall be filed on forms approved by the Board and provided to applicants by the secretary. The Board may require additional information deemed necessary. The failure to submit adequate information may be grounds for dismissal. An application filed by an agent shall be accompanied by written designation of the agent signed by the applicant or party in interest.

### **Section 2. Time for Appeal.**

An appeal from an administrative decision must be filed within thirty (30) days after actual notice of the decision. An appeal is filed by delivery of the appeal form to the secretary of the Board or the Board's designee who shall notify the official appealed from.

### **Section 3. Agenda.**

Appeals and applications shall be marked with the date of receipt and placed on the hearing agenda in the order in which received. Appeals shall be heard in the order on the agenda unless otherwise set by the Board for good cause shown.

### **Section 4. Withdrawal of Appeal.**

Any appeal or application may be withdrawn by written notice delivered to the secretary prior to the board meeting. An appeal from an administrative decision which is withdrawn may not be refiled after the thirty (30) day time for appeal has expired. Withdrawn applications for variances and special exceptions may be refiled after six (6) months and shall be placed on the calendar according to the date refiled.

### **Section 5. Continuances.**

The hearing of an appeal or application may be continued one time by the Board for good cause shown.

### **Section 6. Notice.**

Public notice of a hearing of the Board shall be published in a local newspaper and posted on or adjacent to the property affected at least fifteen (15) days prior to the hearing. The notice shall contain a description of each matter to be heard and identify the applicant and property affected.

## **ARTICLE IV. HEARING PROCEDURE**

### **Section 1. Appearances.**

The applicant or any party in interest may appear in person or by agent or attorney. Applicants or their designated representatives must be present at the meeting for a case to be heard. ~~The Board may postpone or proceed to dispose of a matter on the records before it in the absence of an appearance on behalf of an applicant.~~

### **Section 2. Witnesses.**

Parties in interest may present testimony under oath. Witnesses may be compelled to attend by subpoena requested at least ten (10) days prior to a hearing and signed by the chairman. The Board

may call its own witnesses when deemed appropriate.

**Section 3. Cross-examination.**

No party shall have the right to cross-examine witnesses; however, the opportunity to examine opposing witnesses may be freely extended when conducted in an orderly manner. Intimidation of witnesses will not be allowed.

**Section 4. Evidence.**

Relevant documents, photographs, maps, plans, drawings, etc., will be received in the record without authentication in the form of legible copies. Relevant testimony which is not cumulative or hearsay will be received. The chairman will rule on all evidentiary matters. Evidence may be placed in the record with an objection noted.

**Section 5. Conduct of Hearing.**

The normal order of hearing, subject to modification by the chairman, shall be:

- a. Statement of matter to be heard (chairman);
- b. Presentation by city staff (10-minutes limit);
- c. Presentation by applicant (10 minute limit);
- d. Un-sworn public comment (2-minutes per person).

The Board may question participants at any point in the hearing;

Matters in which additional time is granted may be moved to the end of the agenda.

**Section 6. Disposition.**

The Board may deliberate and make a final disposition of a matter by the concurring vote of three members present at the hearing and qualified to vote; provided that not less than a quorum are qualified to vote. The vote may be taken at the same or a subsequent meeting. A member may not vote on a matter which the member had not heard. Deliberations shall be conducted and voting shall be in public.

**Section 7. Form of Order.**

An order shall be issued disposing of a matter by granting or denying relief with such conditions as may be deemed necessary; or affirming, modifying, or reversing an administrative decision. A matter may be dismissed for lack of jurisdiction or prosecution. Findings of fact and conclusions of law shall be separately stated in an order.

**Section 8. Service of Order.**

The secretary shall deliver a copy of an order to each party in interest by certified mail immediately upon execution of the order by the chairman.

**Section 9. Rehearing.**

The Board may grant a rehearing of an application which has been dismissed or denied upon written request filed with the secretary within fifteen (15) days after delivery of the order accompanied by new evidence which could not reasonably have been presented at the hearing, or evidence of a clerical error or mutual mistake of fact affecting the outcome.

**ARTICLE V. RECORDS**

**Section 1. Minutes.**

The secretary shall record all meetings and hearings of the Board on tape which shall be preserved until final action is taken on all matters presented. The secretary shall prepare minutes of each meeting for approval by the Board at the next regular meeting. Minutes shall be maintained as public records.

**Section 2. Orders and Documents.**

The secretary shall assist in the preparation and service of all orders of the Board in appropriate form. Copies of all notices, correspondence, documentary evidence, orders and forms shall be maintained as public records.

**ARTICLE VI. ADOPTION AND AMENDMENT**

**Section 1. Adoption.**

These rules were adopted by vote of a majority of the members of the Board at a regular public meeting on October 1, 1997, and were revised on May 18, 1998, ~~and~~ on January 28, 2008, and on June 22, 2015.

**Section 2. Amendment.**

These rules may be amended at any regular meeting of the Board by majority vote of the members of the Board at least seven (7) days after the written amendment is delivered to all members.

