

**BOARD OF ZONING APPEALS
RESOLUTION**

**ADOPTING REVISED RULES OF PROCEDURE FOR THE TOWN OF
BLUFFTON BOARD OF ZONING APPEALS**

WHEREAS, in accordance with of the *South Carolina Local Government Comprehensive Act of 1994*, the Town of Bluffton is authorized to establish a Board of Zoning Appeals; and

WHEREAS, the Town of Bluffton Board of Zoning Appeals (Board of Zoning Appeals) is established under the provisions in the Town of Bluffton Unified Development Ordinance, Article 2; and

WHEREAS, Town Council appoints members of the Board of Zoning Appeals and as such, the Town determined that it is in its best interest for the Town Council to approve the Rules of Procedure for the Board of Zoning Appeals by Resolution prior to adoption by the Board of Zoning Appeals; and

WHEREAS, the Town Council approved the Rules of Procedure for the Board of Zoning Appeals by Resolution on October 11, 2011; and

WHEREAS, the Board of Zoning Appeals adopted the Rules of Procedure for the Board of Zoning Appeals by Resolution on April 24, 2012; and

WHEREAS, in order to establish consistent terms, appointments, and qualifications for all Boards, Committees, and Commissions appointed by Town Council, the Town Council approved Chapter 3 Boards, Committees, and Commissions Terms, Appointments, and Qualifications of the Municipal Code on February 20, 2012 and subsequently amended the same on November 13, 2012; and

WHEREAS, Chapter 3 Boards, Committees, and Commissions Terms, Appointments, and Qualifications of the Municipal Code establishes attendance and removal provisions that are inconsistent with the current approved and adopted Rules of Procedures; and

WHEREAS, the Board of Zoning Appeals shall adopt these revised Rules of Procedure by Resolution in accordance with of the *South Carolina Local Government Comprehensive Act of 1994* and to ensure the Rules of Procedures are consistent with Chapter 3 Boards, Committees, and Commissions Terms, Appointments, and Qualifications of the Municipal Code.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN OF BLUFFTON BOARD OF ZONING APPEALS AS FOLLOWS:

1. The Board of Zoning Appeals hereby adopts the revised Rules of Procedure, as approved by Town Council, which are attached and incorporated as "Exhibit A" hereto.

THIS RESOLUTION SHALL BE EFFECTIVE IMMEDIATELY UPON ADOPTION.

SIGNED, SEALED AND DELIVERED AS OF THIS 21 DAY OF MAY, 2013.



A handwritten signature in blue ink, appearing to read "Christine Adams", is written over a horizontal line.

Chair

ATTEST:



A handwritten signature in blue ink, appearing to read "Christine Adams", is written over a horizontal line.

Secretary

Exhibit A

Town of Bluffton Board of Zoning Appeals Rules of Procedure

Section 1. Establishment.

The Town of Bluffton Board of Zoning Appeals (Board) is established under the provisions in the Town of Bluffton Unified Development Ordinance (UDO), Article 2.

Section 2. Rules.

The Board is adopting these Rules of Procedure by Resolution in accordance with of the *South Carolina Local Government Comprehensive Act of 1994*. S.C. Code Ann. § 6-29-790.

Section 3. Membership.

- A. Appointment. The Board shall consist of five (5) members appointed by Town Council in accordance with the Town of Bluffton Unified Development Ordinance (UDO), Article 2. A vacancy in membership must be filled for the unexpired term by Town Council appointment. Board members shall serve without compensation. No member of the Board shall hold any other public office or elected position in the Town, other municipalities within Beaufort County, or Beaufort County.
- B. Officers. The Chair and Vice-Chair shall be elected annually by a majority vote of members present and qualified to vote and shall perform the following duties:
1. The Chair shall be a voting member of the Board and shall:
 - i. Call meetings of the Board to order;
 - ii. Call Special Meetings of the Board;
 - iii. Preside at meetings and hearings;
 - iv. Swear in witnesses;
 - v. Sign documents for the Board;
 - vi. Have orders of the Board served on parties; and
 - vii. Perform other duties approved by the Board.
 2. The Vice-Chair shall preside over the meeting or hearing and perform the required duties set forth in Section 3.B.1 of these Rules of Procedure in the absence of the Chair. In the absence of the Chair and Vice-Chair, an acting Chair shall be elected by a majority vote of members present and qualified to vote.
- C. Secretary. The UDO Administrator, or their designee, shall serve as Secretary and shall perform the following duties:

1. Provide notice of meetings and Public Hearings;
2. Assist the Chair and Staff in preparation of agenda;
3. Keep minutes of meetings and hearings;
4. Maintain Board records as public records;
5. Attend to Board correspondence;
6. Serve orders of the Board on parties; and
7. Perform other duties normally carried out by a Secretary.

D. Removal. A member shall notify the Secretary of an absence 24 hours before the scheduled meeting. Town Council may remove any member after written notice in accordance with Code of Ordinances of the Town of Bluffton Chapter 3, Section 3.2(d).

Section 4. Education and Training.

- A. State Boards and Commission Member Training. Members of Boards, Commissions, and Staff liaisons are required to attend mandatory State Boards and Commissions training, per Article 9 of the *South Carolina Local Government Comprehensive Act of 1994*. Failure to complete State Boards and Commissions mandatory training by the required date may result in removal.
- B. Town Manager Boards and Commissions Training. The Town Manager may develop and implement such periodic training sessions as may be reasonable and appropriate for members of Boards, Commissions, and Staff liaisons. Such training may include basic provisions of parliamentary procedure, the role of municipal government in the regulatory context, the extent of authority delegated to Boards and Commissions by Town Ordinances, and other topics the Town Manager deems appropriate. Attendance by members of Boards, Commissions, and Staff liaisons shall be mandatory. Failure to attend Town sponsored training without an excused absence for just cause may be cause for removal;
- C. Yearly Board and Commission Updates. Not less frequently than once annually, the Town Manager may convene a meeting of all Chairs of the Boards and Commissions for purposes of allowing the Chairs to share experiences in addressing issues of process and procedure. Not less frequently than once annually, the UDO Administrator shall present an update to Town Council of the Boards activities for the previous 12 months at a regularly scheduled Town Council meeting.

Section 5. Voting/Quorum.

- A. 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.
- B. Voting. A member must be present to vote. Each member shall vote on every question unless disqualified by law. The Board may deliberate and make final disposition of a matter by a majority vote of members present and qualified to vote. Deliberating and voting shall be done in public.

Section 6. Ethics.

- A. Ethics Reform Act. The Board shall adhere to the *South Carolina Ethics Reform Act*, (S.C. Code of Laws, Title 8, Chapter 13).
- B. Disqualification. The question of disqualification shall be decided by the member affected, who shall announce the reason for disqualification, provide the Secretary with a completed Recusal Form, have it placed in the minutes, and refrain from deliberating or voting on the question in any way.
- C. Ex Parte Contact. Any ex parte contacts with applicants, opponents, or other parties of interest in a matter to come before the Board shall be reported at the earliest opportunity to the Chair. It shall be considered the duty of Board members to conduct themselves in a manner that will discourage such contact.
- D. Expressions of Bias. Board members shall avoid all situations and circumstances that may lead to bias or prejudice in manners presented to the Board. No Board member shall offer expressions of individual opinion regarding any matter of consideration by the Board prior to the meeting.

Section 7. Meetings.

- A. Robert's Rules of Order. The current edition of *Robert's Rules of Order* shall govern the conduct of meetings except as otherwise provided by these Rules of Procedure.
- B. Meeting Schedule. Meetings of the Board must be scheduled at least once (1) per month. Each December, the Board shall adopt, publish, and post its schedule of meetings for the next calendar year. Meetings shall be held at the Theodore D. Washington Municipal Building located at 20 Bridge Street at 6:00 pm and shall be open to the public. Meetings may be cancelled by the UDO Administrator if there is no business before the Board.
- C. Agendas. The Secretary shall post the meeting agenda at least five (5) days prior to each regular meeting by notice delivered to the local news media, interested citizens and posting at Town Hall. Special meetings may be held at the call of the Chair or a majority of the Board upon twenty-four (24) hours by notice delivered to the local news media, interested citizens and posting at Town Hall.
- D. Agenda Amendment. Items may be added to the agenda at a meeting by a majority vote of members present and qualified to vote.
- E. Applicant Attendance. The applicant or any party in interest must appear in person or by agent or attorney. 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.

- F. Conduct of Meeting. In matters brought before the Board for public meeting, the normal order to hear the agenda item, subject to modification by the Chair, shall be:
1. Statement of matter to be heard;
 2. Presentation by Staff;
 3. Presentation by Applicant;
 4. Staff Remarks;
 5. Board Comments and Questions;
 6. Public Comment on the current agenda item;
 7. Final Staff Remarks;
 8. Final Applicant Remarks; and
 9. Motion, debate, and vote of the Board.
- G. Public Comment. Members of the public desiring to be heard by the Board during the Public Comment agenda item or during a Public Hearing must provide written notice to the Secretary before the start of the meeting. Members of the public shall be recognized by the Chair before stating their business and shall be limited to three (3) minutes.
- H. Recess. A recess may be called by the Chair or by a majority vote of members present and qualified to vote. The Chair shall state the duration of the recess and time the meeting will recommence before the recess begins. The recess start and end time shall be recorded in the minutes.
- I. Executive Session. The Board may enter Executive Session as set forth in the *South Carolina Code of Laws Title 30 Chapter 4 Freedom of Information Act*. The Board may request the attendance of non-members as they deem appropriate. All proceedings of Executive Sessions are confidential and attendees are honor bound not to divulge the proceedings.
- J. Workshops. The Board may periodically hold workshops to discuss issues and general policies and procedures to determine the necessity for future action. No formal action shall be taken at the workshop. Workshop sessions shall be open to the public.
- K. New Items after 9:30 pm. The Board will not hear new items after 9:30 pm unless authorized by a majority vote of members present and qualified to vote. Items not heard before 9:30 pm may be continued to the next regular meeting or a special meeting date as determined by the Board.
- L. Minutes. The Secretary shall prepare minutes of each meeting showing the vote of each member upon each question, and if members are absent or failing to vote. The minutes shall also document the Boards examinations and other official actions. The minutes shall be approved by a majority vote of members present and qualified to vote at the next regular meeting. Minutes shall be maintained as public records in the Department of Growth Management.

Section 8. Administrative Appeals

- A. Applicability. In accordance with the *South Carolina Local Government Comprehensive Act of 1994*, S.C. Code Ann. § 6-29-800(a)(1), the Board shall hear appeals from administrative decisions in the enforcement of the zoning ordinance portions of the UDO.
- B. Filing. The Notice of Appeal must be delivered to the Department of Growth Management within ten (10) days of the decision becoming public record by issuance or denial of a permit, or the filing of a written decision in the office of the UDO Administrator. Application submissions must cite the Ordinance(s) upon which the request is based, the decision being appealed, a narrative stating the grounds of the request, a detailed plat and/or plan of the property(s) involved, any additional materials on which the decision being appealed is based, and all fees paid in full. The Board or Staff may request additional information deemed necessary. Failure to submit adequate information may be grounds for dismissal.
- C. Withdrawal of Appeal. An appeal or application may be withdrawn by written notice to the Secretary prior to action by the Board.
- D. Decisions. In exercising the above power, the Board may, in conformity with the provisions of the *South Carolina Local Government Comprehensive Act of 1994*, reverse or affirm, wholly or in part, or may modify the order, requirements, decisions, or determination, and to that end shall have all the powers of the officer from whom the appeal is taken and may issue or direct the issuance of a permit. The Board in the execution of the duties specified in this chapter may subpoena witnesses and in case of contempt may certify this fact to the Beaufort County Circuit Court.

Section 9. Public Hearing

- A. Public Hearing Notice. Public Notice of Public Hearings shall be posted in accordance with the UDO, Article 3.
- B. Testimony under Oath. Parties in interest may present testimony under oath. The oath "Do you swear to tell the truth, the whole truth and nothing but the truth?" shall be administered by the Chair. 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.
- C. 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. The Board may question participants at any point in the Hearing.
- D. Relevant Documents and Testimony. Relevant documents, photographs, maps, plans, drawings, etc., will be received in the record without authentication in the case of legible copies. Relevant testimony, which is not cumulative or hearsay,

will be received. The Chair will rule on all evidentiary matters. Evidence may be placed in the record with an objection noted.

- E. Orders of the Board. All final decisions and orders of the Board must be in writing and be permanently filed in the office of the Board as a public record. Within fifteen (15) days of a ruling, an order shall be issued disposing of a matter by granting or denying relief with such conditions 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 final decisions or orders of the Board. The Secretary shall delivery a copy of an order to each party in interest by certified mail immediately upon execution of the order by the Chair.

- F. 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.

Section 10. Contempt and Penalty.

In case of contempt by a party, witness, or other person before the Board, the Board may certify this fact to the Circuit Court of the county in which the contempt occurs and the judge of the court, in open court or in chambers, after hearing, may impose a penalty as authorized by law.



Section 11. Appeals of Board Decisions.

Appeals of Board decisions shall be in accordance with the provisions set forth in the *South Carolina Local Government Comprehensive Act of 1994*.

Section 12. Amendment and Adoption.

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

These rules were adopted by vote of a majority vote of members present and qualified to vote at a regular public meeting on May 21, 2013.

Attest:  Secretary  Chair