

TOWN OF EDISTO BEACH

Board of Zoning 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 Town of Edisto Beach Board of Zoning Appeals with seven members appointed by Council.

Section 2. Officers. The officers of the Board shall be a chairperson and vice-chairperson elected *for one year terms at the regular scheduled October meeting of each calendar year.* The Board shall appoint a member of the staff *as secretary of the board.* If the office of Chairperson, Vice Chair or Secretary, becomes vacant this office will be filled no later than the next scheduled meeting.

Section 3. Chairperson. The chairperson shall be a voting member of the Board and shall:

- a. Call meetings 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-Chairperson. The vice-chairperson shall exercise the duties of the chairperson in the absence, disability, or disqualification of the chairperson. In the absence of the chairperson and vice-chairperson, an acting chairperson shall be elected by the members present.

Section 5. Secretary. The secretary shall:

- a. Provide and publish notice of appeals and meetings;
- b. Assist the chairperson in preparation of agenda;
- c. Properly post property involved in appeals for variances or special exceptions.
- 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 the designated Town office in December of each year. Special meetings may be

called by the chairperson upon 24 hours notice, posted and delivered to all members and local news media. Meetings shall be held at the place stated in the notices, and shall be open to the public.

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 days prior to each regular meeting, and at least 24 hours prior to a special meeting. Items may be removed from the agenda or postponed at a meeting by majority vote. All variance request materials shall be submitted to the Building Department no later than 20 days prior to the next scheduled meeting date.

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 Newly Revised, 10th Edition, shall govern the conduct of meetings except as otherwise provided by these Rules of Procedure.

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 15 days after the decision becomes a matter of public record by denial or issuance of a permit or the filing of a written decision in the office of the Zoning Administrator. An appeal shall be filed by delivery of the approved appeal form to the secretary of the Board who shall notify the official appealed from.

Section 3. Calendar. Appeals and applications shall be marked with the date of receipt and placed on the hearing calendar in the order in which received. Appeals shall be heard in the order on the calendar 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 action by the Board. An appeal from an administrative decision which is withdrawn may not be refiled after the 15 day time for appeal has expired. Withdrawn applications for variances and special exceptions may be refiled after six months and shall be placed on the calendar according to the date refiled.

Section 5. Continuances. The Board may continue an appeal or application hearing one time 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 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. To meet the above schedule, the appeal must be filed 20 days prior to a scheduled meeting.

Article IV Hearing Procedure

Section 1. Appearances. The applicant or any party in interest may 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.

Section 2. Witnesses. Parties in interest may present testimony under oath. Witnesses may be compelled to attend by subpoena requested at least 10 days prior to a hearing and signed by the chairperson. 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 chairperson 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 chairperson, shall be:

- a. Statement of matter to be heard (chairperson or secretary);
- b. Presentation by applicant (10 minute limit);
- c. Presentation by official appealed (10 minute limit); or
- d. Presentation by opponents (10 minute limit);
- e. Rebuttal by applicant (5 minute limit);
- f. Unsworn public comment when appropriate;
- g. The Board may question participants at any point in the hearing;
- h. Matters in which additional time is granted may be moved to end of the agenda.

Section 6. Disposition. The Board may deliberate and make final disposition of a matter by majority vote of members present and qualified to vote; provided 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 he or she has not heard. Deliberating and voting shall be done in public.

Section 7. Form of Order. 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 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 chairperson.

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 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 electronic media 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 Amendment and Adoption

Section 1. 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 days after the written amendment is delivered to all members.

Section 2. Adoption. These rules were adopted by vote of a majority of the members of the Board at a regular public meeting on_____.

Chairperson

Attest:

Secretary