

TOWN OF EDISTO BEACH
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 Town of Edisto Beach Zoning Board of 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 regularly 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. Meetings of the Board shall be scheduled once per month; however, if there is no business scheduled to be brought before the Board twenty-five (25) days before the scheduled meeting for any particular month, that meeting may be cancelled by the chairperson, with notification of the cancellation posted at Town Hall. Special meetings may be called by the chairperson upon twenty-four (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 (5) 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 of the members present and voting.

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.

The latest edition of Robert's Rules of Order shall govern the conduct of meetings except as otherwise provided by these Rules of Procedure. The senior non-presiding member will be parliamentarian.

Section 5. Voting.

A member must be present to vote. Each member shall vote on every question unless a member has a conflict of interest on a particular issue. An abstention from voting (but not a recusal caused by an ethical consideration or conflict of interest) shall be considered a vote in favor of the motion. The member affected shall decide the question of disqualification. The member shall announce the reason for disqualification, give it to the chairperson in writing, have it placed in the minutes, and refrain from deliberating or voting on the question.

Section 6. Conduct.

Except for public hearings, no person shall speak at a Board meeting unless recognized by the chairperson. The Board shall provide a time during each meeting to receive public comments. All Board members shall conduct themselves in a manner that avoids any appearance of impropriety.

Section 7. Decisions.

All decisions shall be by vote of all qualified members present. A tie vote shall constitute a denial. All decisions shall be accompanied by a written summary of the action.

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

Administrative Appeals 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 Ethics Policies

Section 1. Conflict of Interest. No Zoning Board of Appeals member may knowingly use his official office to obtain an economic interest for himself. A member of his immediate family, an individual with whom he is associated, or a business with which he is associated. This prohibition does not extend to the incidental use of public materials, personnel, or equipment subject to or available for a Board's use which does not result in additional public expenses.

Members must have the right and the obligation to vote on all questions before them and to participate in the business of the Zoning Board of Appeals, except when a conflict of interest exists.

- a. Notification of Conflict of Interest.** Whenever the Zoning Board of Appeals is considering a matter which raises a question of conflict for a particular member, the member is responsible for alerting the Board Chairperson prior to the commencement of the meeting. Each member is responsible for determining when a conflict of interest exists.
- b. Conduct at Meetings Where a Member has a Conflict of Interest.** – If any member declares a conflict of interest with any particular item, the member shall notify the Board and the public in attendance of the conflict of interest. The member shall recuse himself from participation in both the Board's discussion and voting on the item and shall remove himself from the meeting room until the item has been completed by the Zoning Board of Appeals.
- c. Minimizing Conflicts.** It is intended that situations resulting in conflict of interest for members shall be minimized.

Section 2. Ex Parte Communication. Ex parte communications are contacts between individuals seeking to influence a decision of members of the Zoning Board of Appeals outside the meeting forum on any matter that is or will be before the Board for consideration. The prohibitions of this policy shall apply beginning with the placing of an item on the Zoning Board of Appeals meeting agenda for decision or at the time a Board member becomes knowledgeable that a notice of public hearing before the Board has been issued by the Town staff.

Members shall attempt to avoid ex parte communications concerning such matters. Should ex parte contacts occur where relevant and material information is obtained for consideration by a member, then such information shall be disclosed prior to or at the time of the public hearing and/or public meeting of the Board so that interested parties may have an opportunity to respond.

- a. Managing Ex Parte Communication.** Board members shall not initiate ex parte communications. If an ex parte communication is initiated by another person, the Board member contacted shall:
 1. Refrain from discussing the substance or merits of a case;

2. Inform the person, if necessary, that such a discussion could lead to disqualification of the member from voting;
3. Refer the person to the Town Building Department, or to the Board meeting, as appropriate; and
4. Report on the conversation to the Board and the public at a public meeting.

Article VII 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