

**City of Hanahan
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 City of Hanahan Board of Zoning Appeals with five (5) members appointed by the City Council.

Section 2. Officers. The board's officers shall be a chair and vice chair elected for one-year terms at the first meeting of the board in each calendar year. The board shall appoint a member of the staff as secretary.

Section 3. Chair. The chair 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 Chair. The vice chair shall exercise the duties of the chair in the absence, disability, or disqualification of the chair. In the absence of the chair and vice chair, an acting chair shall be elected by the members present.

Section 5. Secretary. The secretary shall:

- a. Receive all appeals to be filed with the board;
- b. Provide and publish notice of appeals and meetings;
- c. Assist the chair in preparation of agenda;
- d. Properly post property involved in appeals for variances or special exceptions.
- e. Keep recordings and minutes of meetings and hearings;
- f. Maintain board records as public records;
- g. Serve board decisions on parties;
- h. Attend to board correspondence; and
- i. Perform other duties normally carried out by a secretary.

**Article II
Meetings**

Section 1. Time and Place. Meetings of the board shall be called by the chair upon at least a four-day (4) 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 24 hours prior to a meeting. Items may be removed from the agenda or postponed at a meeting by majority vote.

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, current 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 of interest. Filed applications may be rejected by the zoning administrator for requests to the board that are: (1) not filed with the secretary; (2) incomplete; (3) missing the required fee; (4) outside the jurisdiction of the board under state or local laws; or (4) otherwise not permitted or prohibited per state and local laws. Such rejection by the zoning administrator shall constitute a decision by the zoning administrator, which rejection may be appealed to the board within 30 days.

Section 2. Time for Appeal. An appeal from an administrative decision must be filed within 30 days from the date the appealing party has received actual notice of the action from which the appeal is taken. 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 that is withdrawn may not be refiled after the 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.

Section 7. Prohibited Contact/Ex Parte Communications. Members of the Board of Zoning Appeals shall not communicate with any applicant or other interested party regarding matters related to a pending application outside of a formal public hearing before the board. This prohibition applies to any form of communication outside of the formal public hearing. These communications are referred to as “ex parte communications.” An “ex parte communication” occurs when an interested party in the matter to be decided (or representative) and a quasi-judicial decision-maker on the board discuss, outside the formal hearing process, the substance of the matter to be decided. Each applicant wishing to appear before the board shall sign an acknowledgment as part of the application process containing the applicant’s agreement to not engage in “ex parte communications” with board members. An applicant’s repeated attempts to engage in “ex parte communications” with a board member may result in dismissal of the appeal.

Article IV Hearing Procedure

Section 1. Appearances. The applicant or any party of interest may appear in person or by an 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 of 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 chair. 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 that 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. The Board may require evidence, submissions, and proposed orders to be submitted in advance of a hearing on the matter.

Section 5. Conduct of Hearing. The normal order of hearing, subject to modification by the chair, shall be:

- a. statement of matter to be heard (chair 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 (3-minute limit);
- g. the board may question participants at any point in the hearing; and
- h. 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 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. Voting shall be conducted 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 email (if available) and certified mail upon execution of the order by the chair.

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 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 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 and shall apply to all appeals heard after January 1, 2024.

Attest 
Secretary

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06/17/24 10:26 AM EDT
0L7L-WNFL-DP3P-7VID

Chair