

STATE OF GEORGIA
CITY OF BROOKHAVEN

A RESOLUTION ADOPTING AND APPROVING RULES AND PROCEDURES FOR
ZONING BOARD OF APPEALS MEETINGS

WHEREAS: Well-organized meetings allow a Zoning Board of Appeals to reach decisions in a fair and consistent manner; and

WHEREAS: Efficiency is served when the process of planning and conducting public meetings is clearly stated and understood by public officials and citizens; and

WHEREAS: Public participation and access to the governmental decision-making process is a key element of an open and transparent organization.

NOW, THEREFORE, BE IT RESOLVED that all meetings of the Brookhaven Zoning Board of Appeals shall be conducted in accordance with the provisions of this meeting organization ordinance as outlined in the attached Rules and Procedures.

SECTION 1. That the Rules and Procedures for Zoning Board of Appeals Meetings are adopted and attached hereto as if fully set forth herein; and

SECTION 2. That this Resolution shall become effective upon its adoption.

SO RESOLVED this the 15th day of October, 2014.

Approved:

C. Self
Corey Self, Chairman

Attest:

B. Sy
Secretary

RULES AND PROCEDURES FOR ZONING BOARD OF APPEALS MEETINGS

Section 1. Open Meetings. All meetings of the Zoning Board of Appeals shall be held in accordance with the provisions of Title 50, Chapter 14 of the Official Code of Georgia Annotated. The public shall be afforded access to meetings in compliance with Georgia law.

Section 2. Visual and Sound Recordings. Visual, sound, and visual and sound recordings shall be permitted for all public hearings, as long as such recordings are in accordance with State law.
[Cross-reference: O.C.G.A. § 50-14-1(c)]

Section 3. Quorum. A quorum must be present for conducting meetings of the Zoning Board of Appeals. A quorum is four (4) members of the Zoning Board of Appeals. Any Board Member may raise a point of order directed to the Chairman or presiding officer if he or she believes that a quorum is not present. If, during the course of a meeting, a Board Member or Board Members leave and a quorum no longer exists, the meeting may not continue. If a quorum is not attained within thirty (30) minutes, the meeting may be rescheduled by the Chairman, presiding officer, or secretary with the approval of the Board Members present.

Section 4. Chairman. As provided in Article III, Section 3.01 of the City Charter, the presiding officer of the Zoning Board of Appeals shall be the Chairman. As presiding officer, he or she is responsible for the orderly conduct of the meeting. In order to fulfill this duty, the Chairman shall enforce the rules of procedure that are adopted by the Zoning Board of Appeals. The Chairman shall be impartial and conduct the meetings in a fair manner. The Chairman may name a Sergeant-at-Arms to assist in maintaining the orderly conduct of the Board Meetings. As provided in Article II, Section 2.10, the Chairman is treated as one of the Board Members for quorum and voting purposes, and the Chairman may vote on all matters before the Zoning Board of Appeals.

Section 5. Vice Chairman. The selection of the Vice Chairman shall be delayed until the full Board is seated. The Board shall select a Vice Chairman from the Board Members at the first meeting following each general election by a majority vote. The Vice Chairman shall fulfill the duties of the Chairman if the Chairman is not in attendance. The Vice Chairman shall serve a term of one year and until a successor is elected and qualified.

Section 6. Presiding Officer. If the Chairman and the Vice Chairman are absent or otherwise unable to serve as presiding officer at a meeting and a quorum of Board Members is present, the remaining Board Members shall select a Board Member to serve as presiding officer of that meeting until either the Chairman or Vice Chairman is present at that meeting.

Section 7. Parliamentarian. The Secretary shall serve as the parliamentarian for Zoning Board of Appeals meetings.

Section 8. Amendments to the Rules. Any amendments to the rules of order shall be submitted by a Board Member in writing to the City Manager or his designee no fewer than seven (7) business days before a regular meeting of the Zoning Board of Appeals. The proposed amendment shall be

included in the agenda for that meeting and distributed to all Board Members. All amendments require a two-thirds vote of the Board to be adopted.

Section 9. Suspending the Rules of Order. Rules of Order may be suspended in the case of an emergency. A motion to suspend the rules requires a second, is debatable, and requires a two-thirds vote of the Board. Rules governing quorums, voting methods and requirements (Article II, Section 2.10), the notification to Board Members of meetings (Article II, Section 2.09) and rules necessary for compliance with state law may not be suspended; provided, however, that, in the event that a state of emergency is declared by the Governor or other authorized state official, the Zoning Board of Appeals may waive time-consuming procedures and formalities imposed by state law.

[Cross-reference: O.C.G.A. § 38-3-54]

Section 10. Regular Meetings. Regular meetings of the Zoning Board of Appeals shall be held at a time determined by the City Council or their designee, and shall occur at any time that there is an agenda item to address. All regular meetings shall be held in the court chambers, provided however, that other sites are allowed prior to the opening of City Hall or as provided by other sections of this document. A notice containing the foregoing information shall be posted and maintained in a conspicuous place available to the general public at the regular meeting place of the Zoning Board of Appeals. Prior to the establishment of a regular meeting place, the public notice shall be posted at the location at which the meeting will be held.

[Cross-reference: D.C. G. A. § 50-14-1(d)]

Section 11. Meetings Other Than Regular Meetings. The Zoning Board of Appeals may meet at times and locations other than those regularly scheduled meetings.

(a) Special Called Meetings and Rescheduled Regular Meetings. A regular meeting may be canceled, rescheduled, recessed or moved to a new location within the City by the Chairman, secretary or by a majority of the Board for any reason. As provided in Article II, Section 2.09 of the City Charter, special meetings of the Zoning Board of Appeals may be held on the call of the Chairman and one (1) Board member or on the call of three (3) Board members. Notice of such special meetings shall be served on all other members personally, by hand delivery or by electronic means at least 24 hours in advance of the meeting and shall state the purpose or purposes of such meeting. Such notice shall not be required, if the Chairman and all Board Members are present when the Special Meeting is called. Such notice of any Special Meeting may be waived by a Board Member in writing before or after such a meeting. Attendance at a meeting shall also constitute a waiver of notice on any business transacted in such Board Member's presence. Only the business stated in the notice of the called meeting may be transacted at the Special Meeting. Notice to the public shall be given in accordance with State law.

(b) Meetings With Less Than 24 Hours Notice. When emergency circumstances occur, the Zoning Board of Appeals may hold a meeting as allowed by State law. The minutes shall reflect the reason for the emergency meeting and the nature of the notice given to the media and public.

[Cross-reference: O.C. G. A. § 50-14-1(d)]

(c) **Meetings During a State of Emergency.** When it is imprudent, inexpedient or impossible to hold Zoning Board of Appeals meetings at the regular meeting place due to emergency or disaster resulting from manmade or natural causes, as declared by the Governor or other authorized state official, the Zoning Board of Appeals may meet anywhere within or outside of the city. Such a meeting may be called by the Chairman and one Board Member or called by three (3) Board Members. At the meeting, the Board Members shall establish and designate emergency temporary meeting locations where public business may be transacted during the emergency. Any action taken in such meetings shall have the same effect as if performed at the regular meeting site.

[Cross reference: O.C.G.A. §§ 50-14-1(d), 38-3-54, 38-3-55]

Section 12. Order of Business. All regular Zoning Board of Appeals meetings shall substantially follow an established order of business. The order shall be as follows:

1. Call to Order/Roll Call
2. Approval of Minutes
3. Organizational and Procedural Items
4. Unfinished Business
5. New Business
6. Adjournment

Section 13. Agenda. The City Manager or his/her designee shall prepare an agenda of subjects to be acted on for each meeting. Work session topics and Board agenda items shall be submitted consistent with the process established by the City Manager or his/her designee. The agenda shall be made available to the Zoning Board of Appeals at least seven (7) days before every Zoning Board of Appeals meeting.

(a) **Requests For Agenda Items.** Members of the public may request that a particular subject be placed on the agenda for a meeting. To be considered, this request shall be submitted in writing to the City Manager or his/her designee in accordance with the Board's adopted schedule of meetings and deadlines.

(b) **Changing The Agenda.** The order of the agenda may be changed during a meeting as an organizational and procedural item by a majority vote of the Zoning Board of Appeals. A new item, other than a zoning decision, may be added to the agenda by a majority vote of the Zoning Board of Appeals only if it becomes necessary to address the item during the meeting. If city ordinances allow, an existing item may be removed from the agenda by the majority vote of the Zoning Board of Appeals.

(c) **Agenda Must Be Made Public.** The agenda of all matters to come before the Zoning Board of Appeals shall be made available to the public upon request and shall be posted at the meeting site as far in advance as reasonably possible, but not less than 24 hours prior to the start of the meeting. Notice of the agenda for emergency meetings will be handled in accordance with State law.

[Cross-reference: O.C.G.A. §§ 50-14-1(e)(1) and 36-66-4]

Section 14. Decorum. All Board Members shall conduct themselves in a professional and respectful manner. All remarks shall be directed to the Chairman and not to individual Board Members, staff, or citizens in attendance. Personal remarks are inappropriate and may be ruled out of order. A Board Member should not speak at a meeting until he or she has been recognized by the Chairman; notwithstanding the foregoing it should be understood the individual board members may ask questions of the applicants, parties, council and other speakers until the such time as the public hearing has been adjourned. Side conversations between Board members outside of the meeting proceedings during a meeting, whether on or off topic, are not allowed. All comments made by a Board Member shall address the motion that is being discussed. The Chairman shall enforce these rules of decorum. If a Board Member believes that a rule has been broken, he or she may raise a point of order. A second is not required. The Chairman may rule on the question or may allow the Zoning Board of Appeals to debate the issue and decide by majority vote.

Section 15. Voting. Under normal circumstances, passage of a motion shall require the vote of the affirmative vote of a majority of those voting at which a quorum is present. Voting on the adoption of ordinances shall be by voice vote and the vote shall be recorded in the record, but any member of the Zoning Board of Appeals shall have the right to request a roll-call vote and such vote shall be recorded in the journal.

Section 16. Abstentions. No Board Member shall abstain from voting except in the case of a conflict of interest or if absent when a motion being voted upon was made. If a conflict of interest does exist, the Board Member shall provide a specific explanation of the conflict, and the explanation shall be recorded in the journal.

Section 17. Public Participation. Public participation in meetings of the Zoning Board of Appeals shall be permitted in accordance with the provisions of this section.

(a) **Public Hearings.** The Zoning Board of Appeals may schedule Public Hearings for the purpose of soliciting public comment on any subject brought before the Zoning Board of Appeals. Hearings may be held immediately prior to, during or following a meeting of the Zoning Board of Appeals or at such other places and times as the Zoning Board of Appeals may determine. No official action on any item requiring a Public Hearing shall be taken without first having conducted a Public Hearing. Hearings on zoning decisions shall be governed in accordance with the zoning policies and procedures.

[Cross-reference: O.C.G.A. §§ 36-66-4 and 36-66-5]

(b) **Decorum.** Members of the public shall not make inappropriate or offensive comments at a Zoning Board of Appeals meeting and are expected to comply with the rules of decorum that are established for Board Members. Individuals violating any rules of the Zoning Board of Appeals may be ruled out of order by the Chairman or on a point of order made by a Board Member. A majority vote of the Zoning Board of Appeals shall rule on

the point of order. An individual violating the rules of decorum may be removed from the meeting at the direction of the Chairman.

Section 17A. Hearings on Applications for Variances and Special Exceptions. Hearings of the Board in connection with applications for special exceptions pursuant to Sec. 27-913 and with applications for variances pursuant to Sec. 27-915 (the “Application Hearings”) shall be conducted in the accordance with following procedures:

1. All written materials and documents to be offered by any person into evidence at the hearing (other than for the application for variance or special exception and the materials delivered therewith), including legal arguments, briefs and information supplementing the application (including additional information to be provided the City in the event a majority of the Board Members have previously voted to defer the application to a later meeting of the Board) shall be delivered to the Secretary by no later than fourteen (14) business days prior to the scheduled date of the hearing. Exception to this deadline may be approved by the vote of a majority of the Board Members in attendance at the hearing for good reason by the requesting party. Lack of knowledge of this deadline is not “good reason”.
2. The order of the presentation at the hearing shall be:
 - a. The applicant shall have ten (10) minutes to present their argument and any rebuttal to those in opposition or such additional period of time granted by the vote of a majority of the Board Members in attendance at hearing.
 - b. Persons in favor of the application shall have ten (10) minutes to present their argument or such additional period of time granted by the vote of a majority of the Board Members in attendance at hearing.
 - c. Those persons opposed to the application shall have a combined total to ten (10) minutes to present their argument or such additional period of time granted by the vote of a majority of the Board Members in attendance at hearing.

Section 17B. Hearings of Appeals of Administrative Decisions. Hearings of the Board in connection with an appeal from an administrative decision pursuant to Sec. 27-912 (an “Appeal”) shall be conducted in accordance with the following procedures:

1. The parties (the “Parties”) to the hearing shall be: (i) the appellant, (ii) the city and (iii) such other person or entity having an ownership interest in the property that is the subject of the appeal who at least seven (7) days prior to the date of the hearing has given a written notice of appearance to the Secretary, the City Attorney and the appellant.
2. All written materials and documents to be offered by the Parties into evidence at the hearing (other than for the appellant’s application for the appeal and the materials delivered therewith), including legal arguments or briefs, shall be delivered to each other Party and the Secretary by no later than seven (7) business days prior to the scheduled date of the hearing. Exception to this deadline may be approved by a majority of the Board Members in attendance at the hearing for good reason by the requesting party. Lack of knowledge of this deadline is not “good reason”.

3. Each of the Parties shall have ten (10) minutes to present its argument with any unused portion of the appellant reserved for its rebuttal. The forgoing time limits for all of the Parties may be increased by either a majority vote of the Board members present upon the request of any Party or by agreement of all of the Parties.
4. The order of the presentation at the hearing shall be:
 - a. Persons other than Parties who wish to speak will be limited to three (3) minutes to each:
 - i. Such persons in favor of the appeal, with a combined total of ten (10) minutes.
 - ii. Such persons against the appeal, with a combined total of ten (10) minutes.
 - b. The appellant.
 - c. The City.
 - d. Persons having an interest.

Section 18. Minutes. The secretary of the Zoning Board of Appeals or his/her designee shall promptly record the minutes for each Zoning Board of Appeals meeting. The minutes shall specify the names of Board Members present at the meeting, a description of each motion or other proposal made at the meeting, the name of the Board Member who proposed each motion, the name of the Board Member who seconded each motion, and a record of all votes. In the case of a roll call vote, the name of each Board Member voting for or against a proposal shall be recorded. It shall be presumed that a Board Member has voted in the affirmative unless the minutes show otherwise. More detailed information may be included in the minutes at the request of the Zoning Board of Appeals.

The Zoning Board of Appeals shall approve the minutes before they may be considered as an official record of the Zoning Board of Appeals. The minutes shall be open for public inspection once approved as official by the Zoning Board of Appeals but in no case later than immediately following the next regular meeting of the Zoning Board of Appeals. A copy of the minutes from the previous meeting shall be distributed to the Zoning Board of Appeals in the agenda package for the following meeting. The minutes of the previous meeting shall be corrected, if necessary, and approved by the Zoning Board of Appeals at the beginning of each meeting. A majority vote is required for approval. Conflicts regarding the content of the minutes shall be decided by a majority vote. Upon being approved, the minutes shall be signed by the Chairman and attested to by the secretary of the Zoning Board of Appeals.

[Cross-reference: O.C.G.A. § 50-14-1(e)(2)]

Section 19. Procedure and Deadline. The Chairman and City Manager or their designee are authorized to establish detailed procedures and deadlines as necessary to ensure the effective organization of Board proceedings and orderly handling of business to come before the Board, in accordance with the Rules and Procedures adopted by the Board.

Section 20. Roberts Rules of Order. This document shall serve as the rules and procedures of the Zoning Board of Appeals. In the absence of applicable rules and procedures which may from time to time be encountered during the public meetings, Roberts Rules of Order shall be followed.

Section 21. Agenda order. No application shall be placed on any agenda until such time that it can be determined by the secretary that the application is complete and compliant, as required by

the application documents developed and provided by the Community Development Director or his/her designee. Once determined to be complete and compliant, action items shall be placed on the agenda in the order in which they are received.

Section 22. Maximum Number of Agenda Items. The Zoning Board of Appeals will hear no more than ten (10) new business items at any given regular meeting. Additional items of new business beyond the tenth item will be scheduled for the next available regular meeting of the Board. The Secretary may, with the agreement of a quorum of the Board, schedule an additional Special Called Meeting for a time agreeable to all parties.