

TOWN OF JAMESTOWN BOARD OF ADJUSTMENT

Rules of Procedures

I. Applicability

Rule 1. Applicability of Rules

These rules apply to all meetings of the Board of Adjustment of the Town of Jamestown at which the Board is empowered to exercise any of the executive, quasi-judicial, administrative, or legislative powers conferred on it by law.

II. Open Meetings

Rule 2. Meetings to Be Open

(a) It is the public policy of North Carolina and of the Town of Jamestown that the hearings, deliberations, and actions of this Board and its committees be conducted openly.

(b) Except as otherwise provided in these rules and in accordance with applicable law, each official meeting of the Town of Jamestown Board of Adjustment shall be open to the public and any person is entitled to attend such a meeting.

(c) For the purposes of the provisions of these rules concerning open meetings, an official meeting of the Board is defined as any gathering together at any time or place or the simultaneous communication by conference telephone or other electronic means of a majority of Board members for the purpose of conducting hearings, participating in deliberations, or voting upon or otherwise transacting public business within the jurisdiction, real or apparent, of the Board.

III. Organization of the Board

Rule 3. Organization

The Board's organization shall be the same as the organization of the Planning Board, as the Board of Adjustment's members are the same.

The Board shall be comprised of five regular members and four extraterritorial (ETJ) members. The five regular members shall reside within the Town limits and shall be appointed by the Town Council. ETJ members shall reside in the Town's extraterritorial area and shall be appointed by the Guilford County Board of County Commissioners after a favorable recommendation by the Town Council of the Town of Jamestown. The ETJ representatives shall deliberate and vote on those matters affecting policy and land in the extraterritorial jurisdiction.

Members of the Board shall serve a term that is concurrent with their terms on the Planning Board.

Rule 4. Duties of the Chair

The Chair of the Board shall be the same as the Chair of the Planning Board.

In absence of the Chair, the Vice-Chair shall perform all duties assigned to the Chair.

IV. Regular and Special Meetings

Rule 5. Regular and Special Meetings

(a) Regular Meetings. Due to the nature of the business brought before the Board, the Board does not typically publish a schedule of regular meetings and shall only call meetings as required.

(b) Special Meetings. Town staff, the Chair, or Vice-Chair acting in absence of Chair, may at any time call a special meeting of the Board provided that a minimum of forty-eight (48) hours notice is given to all members. Staff shall cause the notice to be posted on the bulletin board of the Town Hall. In addition, the notice shall be delivered to individual persons and news media organizations that have requested such notice as provided in subsection (c), below. Only those items of business specified in the notice may be transacted at a special

meeting, unless all members are present or those who are not present have signed a written waiver.

(c) Sunshine List. Any individual person and any newspaper, wire service, radio station, and television station may file with the Town Clerk a written request for notice of all special meetings of the Board. Requests by individuals must be renewed on or before the last day of each calendar year and are subject to a \$10.00 nonrefundable annual fee.

(d) Work Sessions and Committee Meetings. The Board may schedule work sessions, committee meetings, or other informal meetings of the Board or a majority of the members of the Board at such times and with respect to such subject matter as may be established by resolution or order of the Board. A schedule of any such meetings that are held on a regular basis shall be filed in the same place and manner as the schedule of regular meetings. Work sessions and other informal official meetings not held on a regular schedule are subject to the same notice requirements as special Board meetings.

Rule 6. Broadcasting and Recording Meetings

(a) Except as provided in this rule, any radio or television station is entitled to broadcast all or any part of an official meeting of the Board that is required to be open to the public. Any person may photograph, film, tape-record, or otherwise reproduce any part of a meeting required to be open.

(b) Any radio or television station wishing to broadcast any portion of an official meeting of the Board shall so notify the Planning Director no later than twenty-four hours before the meeting. If the number of requests or the quantity and size of the necessary equipment is such that the meeting cannot be accommodated in the designated meeting room, the Planning Director may require the news media either to pool equipment and personnel or to secure and pay the costs of an alternative meeting site that is mutually agreeable to the Board and the media representatives.

V. Agenda

Rule 7. Agenda

(a) Staff shall prepare the agenda for each regular and special meeting. A request to have an item of business placed on the agenda for a regular meeting must be received at least 4 weeks (20 working days) before the meeting.

(b) Due to requirements of various ordinances, deadlines to be added to the agenda may be increased.

(c) The agenda packet shall include the agenda document, any proposed ordinances or amendments to ordinances, and supporting documentation and background information relevant to items on the agenda. A copy of the agenda packet shall be made available to each member of the Board at least one week (7 working days) before the meeting by any method chosen by each Board of Adjustment Member. Documents in the agenda packet, if not previously available for public inspection, shall become so when packets have been delivered to each Board member or left at his or her usual dwelling.

Rule 8. Informal Public Comments

Due to the quasi-judicial nature of the Board's business, informal public comments shall not be permitted. All testimony given to the Board must be included as part of the record during those times indicated by the Chair. All persons giving testimony must be sworn in prior to giving testimony.

Rule 9. Order of Business

Staff has the discretion to set the agendas before each meeting.

Without objection from the Board, the Chair may call items in any order most convenient for the dispatch of business.

VI. Conduct of Debate

Rule 10. Powers of the Chair

The Chair shall preside at all meetings of the Board. A member must be recognized by the Chair in order to address the Board. The Chair shall have the following powers:

1. To rule on points of parliamentary procedure, including the right to rule out of order any motion patently offered for obstructive or dilatory purposes;
2. To determine whether a speaker has gone beyond reasonable standards of courtesy in his or her remarks and to entertain and rule on objections from other members on this ground;
3. To call a recess at any time;
4. To adjourn in an emergency;

5. To certify rulings of the Board;
6. To issue subpoenas under the direction of the Board; and
7. Any other powers granted by the NC General Assembly.

Rule 11. Conduct by the Board

Members of the Board shall:

1. Faithfully attend Board meetings and conscientiously perform the duties required by these Rules and any applicable state law;
2. Not take part in the hearing, consideration, or determination of any case in which he or she may have a conflict;
3. Not engage in *ex parte* communications or harbor any bias without disclosing such to the Board Chair.

Rule 12. Second Required

A motion shall require a second

Rule 13. One Motion at a Time

A member may make only one motion at a time

Rule 14. Substantive Motion

A substantive motion is out of order while another substantive motion is pending.

Rule 15. Adoption by Majority Vote

A motion shall be adopted if approved by a majority of the votes cast, a quorum being present, unless these rules or the laws of North Carolina require an extraordinary majority.

Rule 16. Debate

The Chair shall state the motion and then open the floor for open debate

Rule 17. Renewal of Motion

A defeated motion may not be renewed at the same meeting.

Rule 18. Withdrawal of Motion

A motion may be withdrawn by the introducer at any time before the Chair puts the motion to a vote.

Rule 19. Duty to Vote

It is the duty of each member to vote unless excused according to law. The Board may excuse members from voting on matters involving their own financial interest or official conduct. A member who wishes to be excused from voting shall so inform the Chair, who shall take a vote of the remaining members. A member who fails to vote, not having been excused, shall be recorded as voting in the affirmative. An excused absence shall not be counted in the vote. An unexcused absence will be recorded as voting in the affirmative.

The Chair shall be required to vote.

Rule 20. Faithful Attendance

Faithful attendance at Board of Adjustment Meetings shall be a prerequisite to continued membership on the board. A member may miss up to 25% of the regular and special meetings or up to three (3) consecutive regular meetings per year with good cause: i.e. job requirements or personal emergency. Once a person misses more than 25% of the regular and special meetings or more than three (3) consecutive regular meetings without good cause in one year, the board should recommend dismissal of the person from the board to the Town Council. ETJ members are "called" when necessary and, as such, their attendance shall only be considered when "called".

Rule 21. Conflict of Interest

At the beginning of consideration of a matter before the Board of Adjustment, any member who has an interest, whether direct or indirect shall notify the Board of Adjustment forthwith of said interest. The chairman shall excuse said member from further participation in the matter. A members' withdrawal from participation shall not be interpreted as voting on the matter

Rule 22. Prohibition of Secret Voting

No vote may be taken by secret ballot. If the Board decides to vote by written ballot, each member shall sign his or her ballot and the minutes shall record the

vote of each member. These ballots shall be retained and made available for public inspection until the minutes of that meeting have been approved, at which time they may be destroyed.

Rule 23. Action by Reference

The Board shall not deliberate, vote, or otherwise act on any matter by reference to an agenda or document number unless copies of the agenda or documents being referenced are available for public inspection at the meeting and are so worded that people at the meeting can understand what is being discussed or acted on.

Rule 24. Quorum

A majority of the Board membership shall constitute a quorum. The number required for a quorum is not affected by vacancies. If a member has withdrawn from a meeting without being excused by majority vote of the remaining members present, he or she shall be counted as present for the purposes of determining whether a quorum is present.

Rule 25. Public Hearings

The Chair or staff has the authority to call public hearings. Public hearings required by law or deemed advisable by the Board shall be discussed setting forth the subject, date, place, and time of the hearing as well as any rules regarding the length of time allotted to each speaker and designating representatives to speak for large groups. Staff shall advertise for the public hearings with proper legal notice. At the appointed time, the Chair shall call the hearing to order and preside over it. When the allotted time expires, the Chair shall declare the hearing ended and the Board shall resume the regular order of business.

The Chair shall follow the approved methods for conducting a public hearing or other presentations to the Board. Generally, this is as follows:

- a. Staff Report
- b. Presentation of Business before Board by applicant.
- c. Speakers from the floor in favor of business before Board.
- d. Speakers from the floor in opposition of business before Board.
- e. Rebuttal Period for those presenting business before Board.
- f. Closing of Public Hearing period.
- g. Discussion among members of Board.
 - i. May request further information from applicant/speaker as necessary (for clarity).

- ii. May request further information from staff as necessary.
- iii. May request continuation of meeting to allow staff and/or applicant to address concerns.
- h. Call to vote on business before Board.

Rule 27. Quorum at Public Hearings

A quorum of the Board shall be required at all public hearings required by law.

Rule 28. Minutes

Minutes shall be kept of all Board meetings.

Rule 29. Reference to *Robert's Rules of Order*

To the extent not provided for in, and not conflicting with the spirit of, these rules, the Chair shall refer to *Robert's Rules of Order* to resolve procedural questions.

Rule 30. Reference to *Suggested Rules of Procedure for Small Local Government Boards*. Second Edition. Bell, A. Fleming, II. Institute of Government. University of North Carolina at Chapel Hill.