

Dinwiddie County Board of Zoning Appeals Bylaws

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These bylaws are written rules of conduct for the Dinwiddie County Board of Zoning Appeals and are intended to establish best practices for meeting behavior and structure, but are not required by code.

ARTICLE 1 - OBJECTIVES

- 1 *The Dinwiddie County Board of Zoning Appeals (“Board”) is established to administer the powers and duties set forth in Title 15.2, Article 7 of the Code of Virginia and all amendments or changes thereto. As defined in Chapter 22, Article 3 of the Code of Dinwiddie County these powers and duties are:*
 - a. *To hear appeals from any order, requirement, decision or determination made by an administrative officer in the administration or enforcement of zoning ordinances.*
 - b. *To authorize, upon appeal in specific cases, such variance from the terms of this chapter as will not be contrary to the public interest, and the strict application of the ordinance would unreasonably restrict the utilization of the property, and such need for a variance would not be shared generally by other properties, and provided such variance is not contrary to the purpose of the ordinance.*
 - c. *To hear and decide appeals from the decision of the zoning administrator or applications for such special exceptions as may be authorized by Chapter 22 of the Code of Dinwiddie County.*
- 2 *The official title of this Board shall be the Dinwiddie County Board of Zoning Appeals.*

ARTICLE 2 - MEMBERS

- 1 *The Board shall consist of five (5) members appointed by the Circuit Court of the County. One of the members may be a member of the Planning Commission. All members must reside within Dinwiddie County.*
- 2 *The term of the members are terms for five (5) years. Their successors shall be appointed for terms of five (5) years. Any member shall be eligible for reappointment. Any vacancy in membership shall be filled by an appointment by the Circuit Court of the County and all vacancies occurring otherwise than by expiration of term shall in all cases be for the unexpired term. Members shall not hold any other public office in the locality with the exception that one member may be a member of the Planning Commission.*
- 3 *Any appointed member may be removed for cause by the appointing authority upon written notice and after a public hearing. Any member shall be disqualified to act upon a matter before the Board with respect to property in which the said member has an interest.*

ARTICLE 3 - OFFICERS AND THEIR SELECTION

- 1 *The officers of the Board shall consist of a Chairman, Vice-Chairman, and a Secretary.*
- 2 *Nomination of the Chairman and Vice-Chairman shall be made from the floor at the first meeting of each calendar year. Election of officers shall follow immediately.*
- 3 *A candidate receiving a majority vote of the entire membership of the Board shall be declared elected. He shall take office immediately and serve for one (1) year or until his successor takes office.*
- 4 *At the Board's first meeting of each year, the Board shall appoint a Secretary who shall be a salaried employee of the Planning Department. The Secretary shall not be entitled to vote on matters before the Board. In the absence of the Secretary, the Director of Planning shall designate a staff member to serve as Temporary Secretary.*
- 5 *Officer vacancies shall be filled immediately by regular election procedures.*

ARTICLE 4 - DUTIES OF OFFICERS

- 1 *The Chairman shall be a member of the Board and shall:*
 - a. *Preside at all meetings and hearings of the Board.*
 - b. *Appoint committees, special and/or standing, that are necessary for the business of the Board.*
 - c. *Promote the orderly and expeditious conduct of meetings.*
 - d. *Rule on all procedural questions. (Subject to a reversal by two-thirds (2/3) majority of the members present).*
 - e. *Ensure new members are properly oriented to the Board bylaws and rules of order.*
 - f. *The Chairman may speak in discussion, and vote on all questions.*
 - g. *Carry out other duties as assigned by the Board.*

2 *The Vice-Chairman shall be a member of the Board and shall:*

- a. *Perform the duties of the Chairman in the absence or disability or at the request of the Chairman.*

3 *The Secretary shall be a non-member of the Board and shall:*

- a. *Receive all applications for appeals to the Board and shall request of the applicant all information and collect other such information required to advise the Board fully of the issues before it.*
- b. *Advertise all public hearings and notify the parties in interest of all hearing as required by law and these bylaws.*
- c. *Keep all papers relating to an application, including written documentation of the decision of the Board, as part of the records of the Board and shall file such records in the Office of the Board as public records.*
- d. *Keep the minutes of the Board's proceedings and other official actions and shall file them in the Office of the Board as public records.*
- e. *Notify all applicants of the final action of the Board on applications for variances and special exceptions, appeals, and any other item over which the Board has jurisdiction.*
- f. *Notify the Vice-Chairman, by telephone or in person, as soon as possible after the Secretary is informed that the Chairman ~~(or Vice-Chairman)~~ will not attend a Board meeting.*
- g. *The Secretary or another member of the Planning staff, on behalf of the Secretary, shall prepare and file an Annual Report of the BZA with the Board of Supervisors.*

ARTICLE 5 - MEETINGS

- 1 *The Board shall adopt a regular meeting time, location and schedule for the year at its first regular meeting of each year. If no cases are pending, the Board may hold its regular meeting to receive training or to consider matters brought before it by the Secretary of the Board of Zoning Appeals.*
- 2 *All regular meetings shall be open to the public.*
- 3 *A quorum must be present at all meetings to transact any official business. A quorum of the Board shall consist of three (3) of the five (5) members of the Board.*

- a. *If a quorum is not present, the Board's agenda shall be moved to the next regular or special meeting of the Board.*
 - b. *An abstention, although not a vote in favor or against a motion, shall be counted as a vote for the purpose of determining a quorum.*
- 4 *The order of business for a regular meeting shall be as follows, unless amended by a majority of the Board:*
 - a. *Call to order by Chairman.*
 - b. *Roll Call to determine quorum.*
 - c. *Review and approval of minutes from previous meetings.*
 - d. *Review agenda.*
 - e. *Citizen Comments - unrelated to agenda items.*
 - f. *Public Hearings.*
 - g. *Old Business.*
 - h. *New Business.*
 - i. *Adjournment.*
- 5 *All motions shall be restated by the Chairman before a vote is taken. The names of persons making and seconding motions shall be recorded.*
- 6 *The Chairman of the Board may, at his discretion, administer oaths and compel the attendance of witnesses.*
- 7 *The Board shall keep a set of minutes of all regular meetings, and these minutes shall be a public record.*
- 8 *Board members are encouraged to attend all meetings, regular and special, and to notify the Chairman or Secretary as soon as possible if unable to attend a meeting. Any member who misses three (3) regular meetings in succession, or fails to attend at least sixty percent (60%) of regular scheduled meetings during any calendar year, without sufficient justification, is subject to recommendation by the Board to the appointing authority for removal from office.*
- 9 *Non-legal staff of the governing body, applicant, landowner or his agent or attorney may have ex parte communications with a member of the board prior to the meeting but may not discuss the facts or law relative to a particular case, and must be in accordance with Va. Code § 15.2-2308.1.*
- 10 *If a meeting exceeds four hours, the Chairman may continue the meeting until the next meeting. If there is a public hearing on the agenda, it can be continued without the need to re-advertise.*

11 *Special meetings of the Board may be called at any time by the Chairman or in the absence or unavailability of the Chairman, by the Vice-Chairman. The Secretary shall contact all members, at least fourteen (14) days in advance of a special meeting, informing them to the time and place of the meeting and the purpose thereof. If the special meeting is to hear a variance case or an appeal to the Board, then all advertisement requirements of a public hearing shall be met.*

ARTICLE 6 - GENERAL RULES OF PARLIMENTARY PROCEDURE

- 1 *The Board's Parliamentary Procedures shall be the most current edition of Robert's Rules of Order, in all matters not covered by the Board's bylaws, to the extent compatible with law and the historical practices of the Board. The County Attorney, or his or her designee, shall act as Parliamentarian to the Board. Any questions involving the interpretation or application of Robert's Rules shall be addressed to the County Attorney. The Board may amend, by Resolution, the rules as it deems appropriate. The following rules shall apply:*
 - a. *Members are not required to obtain the floor before making motions or speaking, which they may do while seated.*
 - b. *Motions need not be seconded. If a motion is not seconded, the Chairman shall decide if vote is taken on the motion or if a motion is dead.*
 - c. *There is no limit to the number of times a member can speak to a question, and motions to close or limit debate generally should not be entertained.*
 - d. *Informal discussion of a subject is permitted while no motion is pending.*
 - e. *The Chairman may speak in discussion without leaving the chair, can vote on all questions, but cannot make motions unless by consent of a majority of Board members present.*
 - f. *When any Board member determines, prior to the calling of any issue before the Board, that he, because of conflict or otherwise, will abstain from voting on such issue, he shall announce such intention at the time the issue comes before the Board and shall not participate in the discussion on such issue or question.*
 - g. *In the incidence of a tie, the voted upon issue by the Board is dead and therefore voted down, except any appeal taken pursuant to Va. Code § 15.2-2311, in a tie vote, the matter may be carried over until the next scheduled meeting at the request of the person filing the appeal.*

- h. Only Board members and the Parliamentarian shall have standing to raise noncompliance with these General Rules of Procedure, and only during the current meeting at the time of violation. Failure of the Board to comply with these General Rules of Procedure shall not invalidate any action taken by the Board.*

ARTICLE 7 - CITIZEN COMMENT PERIOD

To ensure that the affairs of the Board and its committees may be conducted in an orderly manner, to ensure that all persons desiring to address the Board on matters pertinent to it are afforded an opportunity to do so, to permit persons in attendance to observe and hear the proceedings of the Board without distraction, and to permit to the fullest extent the Board to conduct County business with minimal disruption the following rules are established. Any individual, who does not abide by the following rules, after a warning, may be asked to leave the meeting.

1 Rules for Citizen Comment Period

- a. Each person desiring to speak must sign up in advance of the opening of the Citizen's Comment Period on the agenda.*
- b. Each speaker shall be limited to a period of three (3) minutes per comment period; when two (2) minutes have passed the speaker will be reminded that there is one (1) minute remaining. Specified time limits may vary at the discretion of the Chairman.*
- c. Speakers who have signed up may use their allotted time only for themselves and may not donate their time to other speakers.*
- d. Comments must not be related to agenda items and must be confined to matters germane to the business of the Board of Zoning Appeals and shall not be cumulative or repetitive.*
- e. Speakers should address the Board with decorum – loud, boisterous, and disruptive behavior, obscenity, and vulgarity should be avoided, as well as other words or acts tending to evoke violence or deemed to be a breach of the peace.*
- f. The Citizens' Comment Period is not intended to be a question and answer period or for dialogue with County officials. Questions which are raised during a comment period may at the discretion of the Board be responded to by County officials after sufficient time for investigation.*
- g. Speakers shall remain at the podium while addressing the Board.*

- h. Speakers shall not be interrupted by audience comments, calls/whistles, laughter, or other gestures.*

ARTICLE 8 - VOTING

- 1 All matters to be voted upon shall be stated in the form of a motion.*
- 2 All matters before the Board that require a majority vote shall be by roll call.*
- 3 A favorable vote of three members of the Board shall be necessary to reverse any order, requirement, decision or determination of any administrative official or to decide in favor of the applicant on any matter upon which the Board is required to pass.*
- 4 A tie vote means the defeat of the motion, except any appeal taken pursuant to Va. Code § 15.2-2311, in a tie vote, the matter may be carried over until the next scheduled meeting at the request of the person filing the appeal.*
- 5 No member shall abstain from voting on a roll call unless he/she has a conflict of interest in the matter being voted upon, and so states for the record, or unless by the consent of a majority of members present.*

ARTICLE 9 – PUBLIC HEARINGS

- 1 All public hearings will be advertised in accordance with the Virginia Code. No action at a public hearing shall be taken until after notice of intention so to act has been published once a week for two (2) successive weeks in a newspaper published or having general circulation in Dinwiddie County. The term two successive weeks shall mean that such notice shall be published at least twice in such newspapers with not less than six (6) days elapsing between the first and second publication. The notice shall specify the time and place of the hearing at which persons affected may appear and present their views, which the time of hearing shall be not less than five (5) days nor more than twenty-one (21) days after the second advertisement appears in the newspaper.*
- 2 In addition to those required by law, the Board at its discretion may hold public hearings when it decides that a hearing will be in the public interest.*
- 3 The procedure for a public hearing shall be as follows:*
 - a. The Chairman calls for the item.*
 - b. The Secretary, or staff, reads the request and recommendation.*
 - c. Applicant's presentation.*
 - d. Interested citizens' presentation in support/opposition.*

- e. *Applicant rebuttal.*
- f. *Additional time for presenters, as permitted by the Chairman.*
- g. *Questions, if any, from the Board members.*
- h. *Chairman closes public hearing and the Board votes.*

4 The following rules shall govern the conduct of public hearings:

- a. *The applicant shall have ten (10) minutes to address the Board and present written and/or oral comments. Individuals who have signed up to comment on the case shall have three (3) minutes to present written and/or oral comments. All comments shall be directed to the Board, not the audience or other individuals. Specified time limits may vary at the discretion of the Chairman.*
- b. *After all persons who desire to address the Board have had the opportunity to do so, the Chairman may grant additional time to persons who have spoken previously.*
- c. *The Chairman may terminate the hearing at any time after all persons who desire to address the Board have had one (1) opportunity to do so.*
- d. *Board members may question each speaker at the end of his/her presentation.*
- e. *When a matter is set for a public hearing, it shall be heard even though no one in favor of, or in opposition to, the matter appears at the hearing unless it is deferred or withdrawn. In the absence of a personal appearance by the applicant or agent, the Board may proceed to dispose of the application or defer it to another meeting. The applicant may withdraw an application at any time prior to the Board's action.*
- f. *Upon the BZA making a decision, the applicant or appellant shall be advised that an appeal of such decision must be filed within 30 days from the date of that decision.*

ARTICLE 10 - COMMITTEES

- 1 Special Committees may be appointed by the Chairman for the purposes and terms approved by the Board.*

ARTICLE 11 - AMENDMENTS

- 1 The Board bylaws may be amended by a recorded majority vote of the entire membership of the Board provided that written notice has been given to all members of the Board and a copy of the proposed amendment is sent with the notice, prior to said meeting.*

2 The Board bylaws may be suspended in whole or in part upon the unanimous vote of Board members present, relating to any matter before it.

ARTICLE 12 – SEVERABILITY

1 If any word, clause, sentence, section, subsection or other part of parts of these Bylaws shall be held by a court of competent jurisdiction to be unconstitutional or otherwise invalid, such unconstitutionality or invalidity shall not affect any of the remaining parts of these Bylaws, nor shall it affect any application of these Bylaws that may be given effect without the unconstitutional or invalid parts, and to this end, all provisions of these Bylaws are hereby declared to be severable.