

RULES OF PROCEDURE  
FOR THE  
**BOARD OF ZONING AND BUILDING APPEALS**  
OF THE CITY OF GAHANNA, OHIO

Amended & Adopted:  
January 19, 2017

## **RULES OF PROCEDURE FOR THE BOARD OF ZONING AND BUILDING APPEALS OF THE CITY OF GAHANNA, OHIO**

### **ARTICLE I - CONSTRUCTION & PARLIAMENTARY AUTHORITY**

- 1.10 No provision of these rules which conflicts with those rights provided by the Constitution of the United States, the Constitution of the State of Ohio, the Charter of the City of Gahanna, Ohio, or the common law, shall have any force or effect.
- 1.11 If one section of these rules is declared unconstitutional or invalidated, other sections of these rules not declared unconstitutional or invalidated shall still be in full force and effect.
- 1.12 Roberts' Rules of Order, ~~41th~~ current Edition, and any subsequent revisions or amendments thereto, shall control where no provisions are made in these rules or where not in conflict with these rules.

### **ARTICLE II - ORGANIZATIONAL MEETING**

- 2.11 The Mayor shall serve as temporary Chair of the Board of Zoning and Building Appeals until a Chair is elected from those persons appointed to the Board. After election of the Chair, the Vice Chair shall be elected. Election shall be by roll call and the results declared.

### **ARTICLE III - OFFICERS OF THE BOARD**

- 3.10 Chair - The Chair of the Board shall serve as the presiding officer of the Board and shall be responsible for the conduct and order of the meetings of the Board.
- 3.11 Nothing in these rules shall deprive the Chair of the Board of their duties and obligations as a Board member.
- 3.20 Vice Chair - The Vice Chair of the Board shall serve as the Chair of the Board when the Chair is absent or unable to perform the duties of Chair.
- 3.21 Nothing in these Rules shall deprive the Vice Chair of the Board of their duties and obligations as a Board member.
- 3.30 Clerk of the Board shall:
  - A. Attend all meetings of the Board or designate a Deputy Clerk to attend.

- B. Prepare a record of all proceedings of the Board which shall be termed the Minutes.
- C. Maintain all records in accordance with City records retention schedule.
- D. Perform all clerical duties incidental to the office and such other duties as directed by the Chair.
- E. In conjunction with the Chair of the Board, prepare an agenda for each meeting of the Board.
- F. Distribute all documents to the members of the Board in a timely manner.

#### ARTICLE IV - MEETINGS

- 4.10 Regular Meetings. Meetings shall be held as required by law and/or as determined by the Board.
- 4.11 Such meetings shall be called to order at a time and place established by the Chair.
- 4.12 Special Meetings. Special meetings may be called by the Chair. All members of the board shall be notified not less than 24 hours in advance of a special meeting as to the date, time, place, and purpose of such meetings. Only matters relating directly to the stated purpose of the special meeting may be considered during the special meeting. Notice of special meeting shall be in writing and may be distributed electronically.
- 4.40 Absences. Members of the Board not able to attend any meeting shall notify the Chair of the Board or the Clerk of their anticipated absence at least 24 hours, if practicable, prior to the meeting.
- 4.50 Open Meetings. All meetings of the Board, except Executive Sessions, shall be open to the public.
- 4.60 Executive Sessions may be called by the Chair solely for the reasons prescribed under Section 121.22(G) of the Ohio Revised Code.

Commented [KH1]: Same as Council

#### ARTICLE V - ORDER AND CONDUCT OF BOARD BUSINESS

- 5.10 The Agenda. An agenda of business to be considered by the Board shall be prepared and mailed or delivered to each member of the Board at least 48 hours prior to each regular meeting of the Board and 24 hours prior to each special meeting.
- 5.11 The agenda for a regular meeting shall contain:

Commented [KH2]: Electronically notify

- A. A listing, by descriptive words, of each public hearing to be considered.
- B. A listing, by descriptive words, of each appeal to be considered.
- C. Any other items of known business.

5.12 Order of Business. The presiding officer shall conduct Board meetings in the order outlined in the agenda. The order of the agenda may contain the following:

- A. Call meeting to order, Pledge of Allegiance, Roll Call.
- B. Additions or corrections to the agenda.
- C. Administering the Oath to any persons or witnesses who desire to give statements or testimony in any matter before the Board.
- D. Public Hearings: (add 6.10.1)
- E. New Business
- F. Unfinished Business.
- G. Establish next meeting date.
- H. Board members for comment.
- I. Adjournment.

Commented [KH3]: Clerk or Chair, ask at the sworn in.

#### ARTICLE VI - PUBLIC HEARINGS

6.01 Every Appellant shall, no less than ~~3-5~~ business days before a scheduled hearing, furnish to Appellee a complete copy of their or her appeal and any supplemental submission or hearing memorandum, and a copy of any exhibits or other evidence not otherwise contained in this record which he or she intends to present to the Board for consideration pursuant to Rule 6.13.

Any Appellee shall likewise furnish to Appellant, no less than ~~5-3~~ business days before a scheduled hearing, any submission or hearing memorandum, and a copy of any exhibits or other evidence not otherwise contained in the record which he or she intends to present to the Board for consideration pursuant to Rule 6.13.

Commented [KH4]: 7 paper copies (check in code for # of copies)

6.10 The Chair of the Board shall give a brief statement or explanation of the item under hearing and the Board's hearing procedure.

6.10.1 If the Chair, or any other member of the Board, should believe that the Board may not have jurisdiction to entertain all or a part of an appeal, said member shall move prior to the opening of the hearing that the Board consider, and vote upon, the question of its jurisdiction. Any such motion shall be voted upon, or tabled for subsequent consideration, prior to the opening of the public hearing. The Board shall not grant, grant with modifications, deny, or remand any appeal over which it has determined it has no jurisdiction.

Commented [KH5]: Move under B & D.

6.11 The public hearing shall be opened with Appellant (proponents) being allowed 15-20 minutes, and Appellee (opponents) 15-20 minutes. ~~Staff will be allowed 5 minutes for staff comments, and 5 minutes will be allowed for public comments, and 5-10 minutes each for the Appellant (proponents) and Appellee (opponents) for cross examination, further arguments or rebuttal.~~ Additional time may be allowed at the discretion of the Chair. (3 minutes per person, closing statement for public comment)

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6.12 Comments and questions of the Board shall be allowed during the course of the hearing.

6.13 The Board may consider any relevant evidence not contained in the record. The Chair may order exhibits to be entered into the record. If a member of the Board objects the matter shall be put to a vote of the Board and the Board shall order the exhibit entered or rejected by a majority vote.

6.14 Board members who believe that they have a conflict of interest with the matter under determination shall disclose on the record the existence of the conflict prior to the commencement of the hearing and shall not deliberate or attempt to influence any discussion.

#### ARTICLE VII MOTIONS

7.10 When a question is before the Board, under discussion, and/or a motion has been made, no motion shall be proper except the following:

- A. Motion to adjourn.
- B. Motion to recess.
- C. Motion to call the question.
- D. Motion to postpone until a stated future time.
- E. Motion to amend a motion under discussion.

7.11 Vote without Discussion. Relative to the motions listed in Section 7.10 above, motions will go immediately to a vote without discussion, except for a brief explanation by the person requesting the motion.

- 7.13 A motion to amend may only be amended once. An amendment, once rejected, may not be moved again in the same form.
- 7.15 A motion to reconsider may be made by any member, regardless of their vote on the original motion.
- 7.17 All motions shall require a second.
- 7.19 All motions shall be made in a positive manner.

#### ARTICLE VIII VOTING

8.10 Definitions.

A. Quorum - Majority of Board members.

B. Simple Majority - more than half of the members voting.

- 8.20 Voting shall be oral and in public session. The Clerk shall call the roll and each Board member shall respond "yes," "no," or "abstain, as a conflict of interest," and no other comments shall be made during the voting. The order of voting by the Board members shall be as called by the Clerk. After the voting is completed, the presiding officer shall announce the result.
- 8.21 A motion shall be made to grant the appeal, to grant the appeal with modifications, or to remand with instructions to the city official, employee or body for further consideration and/or action.
- 8.22 The member making or seconding a motion may either vote "yes" or "no" on the motion.
- 8.23 A regular motion receiving a simple majority "yes" vote is approved, adopted, or carried.
- 8.24 A regular motion receiving a tie vote is disapproved, not adopted, not carried, or failed.
- 8.25 Any motion receiving a tie vote is disapproved, not adopted, not carried, or failed.

#### ARTICLE IX DEBATE BY BOARD

- 9.10 The presiding officer shall control debate according to the following rules.
- 9.11 No person shall be permitted to speak on any motion longer than that period of time or number of times, which is considered appropriate by the presiding officer.

9.12 While members of the Board may yield to other persons, the limitations outlined in 9.11 still prevail.

9.13 The presiding officer may refuse the floor to any person when tactics are obviously dilatory and not in the best interest of the Board.

#### ARTICLE X DECISIONS BY THE BOARD

10.10 The Board shall review and take into consideration all evidence included in the record.

10.11 After the Board has rendered its decision, said decision shall be journalized in a written format approved by the Board.

#### ARTICLE XI ELECTED OFFICERS AND APPOINTED OFFICIALS OF THE CITY AS THEY RELATE TO THE BOARD

11.10 Elected officers and appointed officials of the City of Gahanna, except as provided by the Charter of the City of Gahanna, may be requested by the Chair, through the Clerk, to attend Board meetings and answer any proper questions directed to them by the Board.

11.11 Such requests of elected officers and appointed officials shall be made through the Clerk at least 48 hours prior to the scheduled meeting.

11.12 The notice shall state the time, place, and purpose of the meeting.

11.13 The City Attorney, or their designee, is the legal advisor for the Board of Zoning and Building Appeals.

#### ARTICLE XII SUBPOENA POWER.

12.10 Subpoena requests by the parties involved shall be issued by the Clerk's office on a form prescribed by the Board. Said subpoena shall be submitted to the Clerk's office no fewer than 14 days prior to a meeting.

12.11 Said subpoena shall be served in accordance with Ohio Rules of Civil Procedure.

APPROVED AND ADOPTED BY THE BOARD OF ZONING AND BUILDING APPEALS OF THE CITY OF GAHANNA, OHIO, on the 19th day of January, 2017.

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Don Jensen, CHAIR  
BOARD OF ZONING AND BUILDING APPEALS

ATTEST:

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KIMBERLY BANNING, CMC  
CLERK OF COUNCIL