

City of Albany Board of Zoning Appeals  
Rules of Procedure

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OFFICE OF THE CITY CLERK  
ALBANY N.Y.

**Article I – Authority; Adoption.**

- 1.1. These procedures are created pursuant to the authorities granted by New York State General Cities Law § 81 and Albany City Code § 42-360.
- 1.2. These procedures may be cited as the Rules of Procedure for the City of Albany Board of Zoning Appeals (herein “the Board”).
- 1.3. These procedures shall be adopted by a majority vote of the members of the Board, signed by the Chair of the Board, and shall then be filed with the Office of the City Clerk, at which point they will be deemed effective.

**Article II – Membership.**

- 2.1. Membership of the Board shall be as stipulated in § 81 of New York State General Cities Law and Chapter 35 of the Code of the City of Albany.
- 2.2. The Chair of the Board shall be appointed by the Mayor.
- 2.3. The Board shall elect a Vice Chair from among its members by a majority vote.

**Article III – Duties of the Chair & Vice Chair; Absence of Chairs.**

- 3.1. The Chair shall preside over all Board meetings.
- 3.2. The Vice Chair shall preside over Board meetings in the absence of the Chair.
- 3.3. If both the Chair and Vice Chair are absent, the Board shall elect an acting Chair for the meeting pursuant to the requirements of § 2.3 of these Rules.
- 3.4. The Vice Chair and those duly elected as acting Chair shall have no duties under this section, except in the event of the Chair’s absence.

**Article IV – Member Training.**

- 4.1. Pursuant to New York State General Cities Law § 81, all members of the Board shall complete a minimum of four hours of training each year.

- 4.1.1. These trainings shall be designed to enable such members to more effectively carry out their duties as members of the Board.
- 4.2. Training provided to a Board member in excess of four hours in a single calendar year may be carried over by the member into the next year.

#### **Article V – Meetings; Regular.**

- 5.1. The regular meeting schedule of the Board will be promulgated and posted online before the beginning of each New Year. All posted schedules are subject to change with advanced notice.
- 5.2. The regular meetings will commence at 6:00 PM and be held in the meeting room on the second floor of 200 Henry Johnson Blvd, Albany, NY 12210 or alternate location if otherwise noticed.

#### **Article VI – Meetings; Special.**

- 6.1. Special meetings of the Board are all those meetings other than regular meetings.
- 6.2. A special meeting may be called by the Board Chair or any Board Member upon notice to the entire Board.
- 6.3. Notice may be given to Board Members by telephone, in person, email, or in writing at least 72 hours in advance unless an emergency exists warranting the meeting to be held on less than 72 hours' notice.

#### **Article VII – Quorum.**

- 7.1. A quorum of the Board must be present to conduct business.
- 7.2. A quorum of the five-member Board is three members.

#### **Article VIII – Executive Sessions.**

- 8.1. Executive sessions will be held in accordance with Public Officers Law §105.
- 8.2. All executive sessions will be entered into from a properly noticed and convened public meeting.

#### **Article IX – Agenda.**

- 9.1. The agenda of every meeting of the Board will be prepared by staff of the Department of Planning and Development (herein “the Department” and “Planning Staff”) at the direction of the Director of the Department.

- 9.2. Any member of the Board may have an item placed on the agenda on at least 24 hours' notice. A member of the Board may have an item placed on the agenda on less than 24 hours' notice only by granting of the Board Chair.
- 9.3. All items for the agenda must be given to the Department by 12:00 PM the day prior to the meeting.
- 9.4. The agenda will be prepared and emailed to Board Members no later than 24 hours prior to the commencement of the meeting for which the agenda was prepared.
- 9.5. If necessary, a supplemental agenda may be distributed at the beginning of the meeting.

#### **Article X – Voting.**

- 10.1. A vote upon any question will be taken by “Yea” and “Nay.”
- 10.2. When taking votes, Planning Staff must record in the minutes for each Board member whether they voted yea, voted nay, abstained from voting, or were absent. Abstentions and absences are not counted as votes. Abstentions and absences are neither positive nor negative votes; they are simply not a vote at all.
- 10.3. For the purposes of determining whether a matter passed, Planning Staff must tally the number of “Yea” votes.
- 10.4. Unless otherwise specified by State law, a majority of the total Board membership present must vote “Yea” for any matter to pass.
  - 10.4.1. A motion to hold a rehearing to review any order, decision, or determination of the Board not previously reheard may be made by any member of the Board and such rehearing may only occur upon a unanimous vote of all members of the Board.
  - 10.4.2. If an affirmative vote of a majority of all members of the Board is not attained on a motion or resolution to grant a variance or reverse any order, requirement, decision or determination of the enforcement official within 62 days, the appeal is denied. The Board may amend the failed motion or resolution and vote on the amended motion or resolution within the time allowed without being subject to the rehearing process as set forth in § 10.4.1. This time period may be extended with consent from the applicant.



## **Article XI – Meeting Minutes.**

- 11.1. In accordance with Public Officers Law § 106, the regularly broadcast and published unabridged video recordings of meetings will constitute the meeting minutes for any meeting of the Board.
- 11.2. Planning Staff will prepare a record or summary of all motions, proposals, resolutions, and any other matter formally voted upon and the vote thereon to be approved at the next regular meeting of the Board and filed with the Clerk of the City of Albany.

## **Article XII – Order of Business.**

- 12.1. The following will be the order of business for all meetings of the Board:
  - 12.1.1. Call to order;
  - 12.1.2. Public Hearing Agenda;
    - 12.1.2.1. Introduce Project;
    - 12.1.2.2. Board Discussion;
    - 12.1.2.3. Public Comment;
    - 12.1.2.4. SEQRA (if applicable);
    - 12.1.2.5. Motion on Project;
  - 12.1.3. Public Meeting Agenda (if applicable);
  - 12.1.4. Adjournment.
- 12.2. Nothing in this section is intended to limit the Board's ability to make temporary modifications to this order by a majority vote of members in attendance.

## **Article XIII – General Rules of Procedure; Meeting Decorum, Motions, Attendance, Recusals.**

- 13.1. The Chair of the Board has the authority to maintain order and decorum during meetings.
- 13.2. Any member of the Board may make a motion to take action on a matter.
  - 13.2.1. Upon the making of a motion, the Chair will halt other discussion and request seconds on the motion.
- 13.3. All motions must be seconded in order to be considered for a vote.
  - 13.3.1. Members may amend motions after discussion. Amended motions require an additional second.

- 13.4. Members of the Board shall be prepared for meetings by reviewing applications and other submitted documents related to an appeal prior to the commencement of the meeting.
- 13.5. Board members shall notify the Planning Staff and the Board Chair when they expect to be late or unable to attend a meeting as early as practicable.
- 13.6. Board members shall notify the Planning Staff, Board Chair, and Counsel to the Board of any decisions to recuse themselves from consideration on a matter.
  - 13.6.1. In the event a Board member recuses themselves from a matter before the Board, they must remove themselves from the meeting area.
  - 13.6.2. Board members shall recuse themselves from matters with which they have a financial or business interest.
- 13.7. Members of the Board shall be disqualified from consideration of a matter before the Board when required by Article 18 of the General Municipal Law and shall record the reason for such disqualification on the record at the meeting.

#### **Article XIV – Guidelines for Public Participation.**

- 14.1. The public may speak only during the meeting's public comment period and at any other time a majority of the Board allows.
- 14.2. Individuals wishing to speak during the Public Comment period must register at least 24 hours in advance of the meeting with Planning Staff in order to be heard.
- 14.3. Individuals must give their name, address, and organization, if applicable, before providing public comment.
- 14.4. Members of the Public are limited to three minutes for public comment, with requests for extension granted on a case-by-case basis by a majority vote of the Board. This time limit is subject to the discretion of the Chair in order to facilitate efficient meetings.
- 14.5. Members of the Common Council and other elected officials are entitled to six minutes for public comment.
- 14.6. Speakers must be recognized by the Chair.
- 14.7. Speakers must speak from the front of the room/microphone unless a disability prevents them from doing so.
- 14.8. Speakers may not yield any time to another speaker.



- 14.9. Board members may, with permission of the Chair, interrupt a speaker during their remarks for clarification or information only.
- 14.10. All remarks must be addressed to the Board as a whole and not any individual member.
- 14.11. Speakers must observe the commonly accepted rules of courtesy, decorum, and good taste. Interested parties or their representatives may also submit written comments at least 24 hours prior to the meeting.
- 14.12. Nothing in this section shall limit the Board Chair's ability to exercise their power to maintain order and decorum of meetings. This ability includes, but is not limited to, the ability to shorten or set time limits for individuals, whether members of the public or applicants, at the Chair's discretion.
- 14.13. All meetings are livestreamed and broadcasted and comment will be accepted via videoconference in addition to in-person.

#### **Article XV – Guidelines for Use of Recording Equipment.**

- 15.1. All members of the public and all public officials are allowed to tape or video record public meetings.
- 15.2. Recording is prohibited during executive session.
- 15.3. All recording must be done in a manner that does not interfere with the meeting, as determined by the Board Chair.
- 15.4. In the event the Board Chair determines the manner in which an individual is recording a meeting is interfering with the Board's business, they may request that the individual alter their behavior in order to halt the interference. In the event the individual does not obey the request, the Board Chair may have the individual and their equipment removed from the meeting room.
- 15.5. Television news and similar operations utilizing professional video equipment may not move throughout the room during the meeting.

#### **Article XVI – Applicant Attendance.**

- 16.1. Failure of an Applicant or their representative to attend the Board meeting where the Applicant's case is scheduled to be heard will render the Applicant subject to the tabling of such appeal.
  - 16.1.1. Virtual attendance is permissible with consent of the Board.

#### **Article XVII – Amending the Rules of Procedure.**

17.1 The foregoing procedures may be amended at any time by a majority vote of the Board.

These Rules of Procedure were delivered to the City Clerk on 11/06/2025.