

**ATHENS-CLARKE COUNTY  
HEARINGS BOARD  
BYLAWS and RULES OF PROCEDURE**

Prepared July 7, 2001  
Amended November 12, 2003  
Amended December 8, 2004  
Amended August 10, 2005  
Amended July 11, 2007

**I. Composition and Design of Hearings Board**

- A. Members: The Hearings Board shall be composed of seven (7) members. The Athens-Clarke County Mayor and Commission shall appoint members.
- B. Terms: The term of office of the members of the Board shall be four (4) years or until their successors are appointed. . No one may serve on the Board more than two consecutive terms.

In order to achieve staggered terms, initial appointments shall be: two members for two years; two (2) members for three years; and three (3) members for four years.

- C. Vacancies: Resignations from the Hearings Board must be submitted in writing to the Secretary of the Hearings Board. The Athens-Clarke County Commission upon written charges and after a public hearing shall remove members of the Hearings Board for just cause. Vacancies caused by resignation or for other reasons shall be filled for the unexpired term in the same manner as for a full term.
  - 1. Failure to attend three (3) consecutive, regular meetings of the Hearings Board;
  - 2. Failure to maintain permanent residence within the jurisdiction of Athens-Clarke County, or
  - 3. Violation of Hearings Board Rules of Procedure or Bylaws may be considered just cause for removal from the Board.
- D. Eligibility: Members of the Hearings Board may not also be employed by the Athens-Clarke County Unified Government. Members of the Hearings Board may not serve as elected officials of Athens-Clarke County.
- E. Payment to the Hearings Board Members: Members of the Board shall be reimbursed for travel expenses associated with their duties at a rate of \$10.00 per meeting attended.

## II. Officers, Quorum and Affirmation of Motions:

### Officers:

1. Chair: The Board shall elect one of its members as Chair, who will serve for one year or until a successor is elected, but no more than two (2) consecutive one year terms. The Chair shall be a voting member, and a vote by a majority (4) of the full membership (7) is needed to affirm a motion. The Chair shall decide all points of order and procedure, subject to these bylaws, the Athens-Clarke County Development Regulations, and the latest edition of Roberts Rules of Order, unless directed otherwise by a majority of the Hearings Board's full membership (4). The Chair shall appoint any committees found necessary to facilitate any business before the Hearings Board. The Chair shall have the authority to determine the need to call for a roll call vote when a voice vote is inconclusive. The Chair shall direct the Secretary to prepare the agenda for each meeting.
  2. Vice Chair: The Hearings Board will also elect a Vice Chair in the same manner. The Vice Chair shall serve as Chair of the Hearings Board in the absence of the Chair. Upon the resignation or disqualification of the Chair, the Vice Chair shall assume the position of Chair for the remainder of the unexpired term. Following the vacancy of the previous Vice Chair, the Board shall elect a new Vice Chair at its next regular meeting. Completion of an unexpired term as Chair by the Vice Chair shall not preclude the Hearings Board member from serving a complete term as Chair; nor shall completion of an unexpired term as Vice Chair preclude a Hearings Board member from serving a complete term as Vice Chair.
  3. If neither the Chair nor the Vice Chair is present for a meeting, then the Board shall elect on the record at such meeting, a member who is present to serve as temporary Acting Chair for that meeting only.
  4. Secretary: The Athens-Clarke County Planning Director or lawful designee shall serve as the Board's secretary. The Secretary, at the direction of the Chair, shall prepare the agenda for each meeting and maintain the minutes of the meetings of the Hearings Board.
- B. Quorum: To constitute a quorum for the transaction of business, there shall be required to be present at any meeting of the Board at least five (5) members.
- C. Affirmation of Motions. The Chair shall be a voting member, and a vote by a majority [four (4)] of the full membership [seven (7)] is needed to affirm a motion.

Following the failure of either a "motion to approve" or a "motion to approve with conditions" to be affirmed by the Board, the Board shall then vote on any main motion still pending, if any. If the vote on any pending main motion does not dispose of the matter, then the following motions shall be in order:

- (1) a motion to deny; or
- (2) a motion to table consistent with the rules for tabling; or
- (3) a motion to approve with amended conditions from any previous motion to approve with conditions that failed; or
- (4) a motion to approve (without conditions) if presented as a motion for the first time.

**III. Bylaws and Rules of Procedure:** The membership of the Hearings Board shall adopt Rules of Procedure and By-laws not in conflict with the provisions of the Zoning and Development Standards and Zoning or any other applicable ordinance within the Athens-Clarke County Code. Notice of the intent to amend and the content of the amendment be distributed in writing to each member of the Hearings Board no less than three (3) days prior to the meeting at which the vote to amend is taken, unless a majority votes to suspend the 3 day rule. Adoption by majority of the membership of the Hearings Board shall be required to amend or adopt the Rules of Procedure and the Bylaws. Amendments must be approved by a majority vote of the Board.

**IV. Meetings:** Meetings of the Board shall be held at the call of the Chair and at such other times as the Board may determine. All meetings of the Hearings Board shall be open to the public. However, members of the public shall not address the Hearings Board unless invited to do so by the Chair. Regular meetings of the Hearings Board shall be held monthly. Called meetings may be held, as needed, following provisions in the Bylaws Section: IV-B.

A. The Regular Administrative Hearing Schedule is as follows, unless otherwise announced:

Date	2 <sup>nd</sup> Wednesday of each Month
Time	3:00
Location	Auditorium - Governmental Building 120 W. Dougherty Street

B. Special Called Meetings may be held as needed by the Chair by giving notice to all members not less than twenty-four (24) hours prior to the time set for the meeting. The Clerk of Commission shall be notified of any Special Called Meetings at the same time as the members are notified. A notice shall be placed in a public location at the meeting site indicating the time, date, location and Agenda for the Special Called Meeting. The public notice requirements established in Title 9, Zoning and Development Standards are not waived for Special Called Meetings.

C. Cancellation of Meetings: Whenever there is no business before the Hearings Board, the Chair may dispense with a regular meeting by giving notice to all members not

less than twenty-four (24) hours prior to the time set for the meeting. The Clerk of Commission shall be notified of any cancellation of meetings at the same time as the members are notified. A notice shall be placed in a public location at the meeting site indicating that the meeting has been cancelled.

- D. **Adjourned Meetings:** Should the Hearings Board not complete the business before it, the Chair may adjourn the same and schedule a continuation of the same meeting until the Agenda has been completed. However, the adjourned meeting must meet the same requirements for the notification of the Clerk of Commission and for the posting of a notice as with a Special Called Meeting.
- E. **Committee Meetings and Work sessions:** Committee Meetings and Work sessions of the Hearings Board may be called by the Chair of the Hearings Board or, in the case of Committee Meetings, by the Chair of the Committee. These meetings, while informal in nature, shall be open to the public and shall meet the same requirements for notice to the Clerk of Commission and posting of the agenda or announcement of the meeting as for Special Called Meetings. Committees of the Hearings Board shall not conduct Administrative Hearings nor shall they occur at Hearings Board Work sessions. Minutes of Committee meetings are not required.

**F. Minutes and Agendas:**

- 5. **Minutes:** The Board shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact. Minutes shall also include records of the examinations of the Hearings Board and other official actions. Minutes shall be part of the public record. A recorded tape will serve as the official record of the meeting. Copies of the recorded tape minutes are available to the public at the cost of duplication. Summary minutes will be prepared by the Secretary of the Hearings Board and available to the public after adoption by the Hearings Board. The applicant or any other party to the proceedings may have a verbatim transcript prepared by an official court reporter, certified in the State of Georgia, at his or her own expense; provided, however, a copy of the transcript shall be filed with the Secretary of the Hearings Board and copies made available to other parties at actual cost.
- 6. **Agenda:** The Secretary, at the direction of the Chair, shall prepare the agenda for each meeting. The agenda shall be posted in a public location. The normal order of business at each meeting shall be:
  - i Determination of Quorum;
  - ii Election of Temporary Acting Chair, if necessary;
  - iii Approval of Minutes of the Previous Meeting(s)
  - iv Approval of the Agenda;

- v Old Business;
- vi New Business;
- vii Other Business;
- viii Adjournment

**V. Conflict of Interest:**

A. Definitions: As used in this section the following definitions shall apply:

1. "Applicant" means any person who appears before the Hearings Board and any attorney or other person representing or acting on behalf of a person who applies for an appeal, a variance, or any other action by the Hearings Board has the duty to consider in the application of its powers granted by Title 9, Zoning and Development Standards.
2. "Business entity" means any corporation, partnership, limited partnership, firm, enterprise, franchise, association, or trust.
3. "Campaign contribution" means a "contribution" as defined in paragraph (6) of Code Section 21-5-3.
4. "Financial interest" means all direct ownership interests of the total assets or capital stock of a business entity where such ownership interest is 10 percent or more.
5. "Member of the family" means the spouse, mother, father, brother, sister, son or daughter of a Hearings Board member.
6. "Opponent" means any person who opposes an application request or any attorney or other person representing or acting on behalf of a person who opposes a Hearings Board action.
7. "Oppose" means to appear before, discuss with, or contact, either orally or in writing, any local government or local government official and argue against an appeal or variance request.
8. "Person" means an individual, partnership, committee, association, corporation, labor organization, or any other organization or group of persons.
9. "Property interest" means the direct ownership of real property and includes any percentage of ownership less than total ownership.

10. "Real property" means any tract or parcel of land and, if developed, any buildings or structures located on the land.

B. A Hearings Board member who knew or reasonably should have known he or she:

1. Has a property interest in any real property affected by a Hearing Board action which the Hearings Board will have the duty to consider;
2. Has a financial interest in any business entity which has a property interest in any real property affected by a Hearings Board action which that Hearings Board will have the duty to consider; or
3. Has a member of the family having any interest described in paragraph 1 or 2 of this section, shall immediately disclose the nature and extent of such interest, in writing, to the Planning Director. The Hearings Board member who has an interest as defined in paragraph 1 or 2 of this section shall disqualify himself from voting on the action. The disqualified Hearings Board member shall not take any other action on behalf of himself or any other person to influence action on the application. The disclosures provided for in this section shall be a public record and is available for public inspection at any time during normal working hours.

**VI. Code of Conduct:** Each member of the Board shall adhere to the following code of conduct:

- A. Uphold the Constitution, laws, and regulations of the United States, the State of Georgia, and all governments therein and never are a party to their evasion;
- B. Never discriminate by the dispensing of special favors or privileges to any one, whether or not for remuneration;
- C. Not engage in any business with the government, either directly or indirectly, which is inconsistent with the conscientious performance of his governmental duties;
- D. Never use any information coming to him confidentially in the performance of governmental duties as a means for making private profit;
- E. Expose corruption wherever discovered;
- F. Never solicit, accept, or agree to accept gifts, loans, gratuities, discounts, favors, hospitality, or services from any person, association, or corporation under circumstances from which it could reasonably be inferred that a major purpose of the donor is to

- influence the performance of the member's official duties;
- G. Never accept any economic opportunity under circumstances where he knows or should know that there is a substantial possibility that the opportunity is being afforded him with intent to influence his conduct in the performance of his official duties;
  - H. Never engage in other conduct which is unbecoming to a member or which constitutes a breach of public trust; and
  - I. Never take any official action with regard to any matter under circumstances in which he knows or should know that he has a direct or indirect monetary interest in the subject matter of such matter or in the outcome of such official action.

If any member of the Board shall violate any provision of this article, that individual shall no longer be eligible to serve in any capacity with the Hearings Board.

**VII. Hearings Board Policy Regarding Site Visits And Communications Received Outside Of The Hearing Process:**

- A. Members of the Board shall not decide how they will vote on a matter pending before the Board, until after the conclusion of the evidentiary proceeding on the application.
- B. Board Members shall avoid the appearance of premature decision-making by adhering to the following rules of conduct.
- C. Board Members shall disclose any discussion outside the hearing process with anyone other than staff or other Board Members, on the record, at the Board meeting at which the subject application is under review, if the discussion is not otherwise revealed in the hearing process. Such disclosure shall include the name of the person with whom the matter was discussed and the nature of the conversation.
- D. If by virtue of a site visit or otherwise, a Board Member obtains what he considers to be pertinent information concerning a matter under review and such information is not presented at the hearing on the matter, such Board Member shall disclose said information on the record, at the hearing, and all parties present shall be given a chance to respond.

**VIII. Administrative Hearings:** Administrative Hearings shall be conducted informally, but in such a manner as to preserve decorum at all times unless otherwise provided for within the Athens-Clarke County code in relation to the specific ordinance under which the application is being presented to the Hearings Board.

- A. The Burden is on the applicant to demonstrate by clear and convincing evidence that all criteria for issuance of the requested action have been satisfied.
- B. The Chair, or in his/her absence the acting Chair (or in the absence of, the Chair and the Acting Chair, the Temporary Acting Chair), may administer oaths and compel the attendance of witnesses by subpoena.
- C. The Board shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, which shall be of public record.
- D. The Hearings Board shall make the decision on the requested action based on the criteria found in the Zoning Ordinance and Development Ordinance.
- E. The Hearings Board, containing findings of fact and conclusions, either approving, approving with conditions, or denying the application shall issue a written decision.

- F. A decision shall be rendered within five (5) days.
- G. Appeals to decisions of the Board regarding Type IV decisions shall be filed within five (5) business days after the final decision is rendered.
- H. No appeals can be made to Board decisions regarding Staff Variances and Interpretations. The Board decision is final.

**IX. Rules of Procedure:** The Hearings Board shall use the Rules of Procedure associated with requested application and action as appropriate and as found in the related sections of the Athens-Clarke County Code. In the absence of specific Rules, the following shall be utilized. At the Administrative Hearing, all persons supporting or opposing a item before the Hearings Board may take either one of two different opportunities to address the Hearings Board on the proposed application; as follows:

- A. Proponents, which include the applicant(s), shall first present their ten (10) minute argument and evidence in support of the item before the Hearings Board, and opponents shall then present their ten (10) minute argument and evidence in opposition to the proposed appeal or variance request.
- B. Neither side will be required to use all of its ten- (10) minute argument period.
- C. Either side may allocate its ten- (10) minute argument period among any number of speakers, provided that the presentation by all speakers for each side shall not exceed ten (10) minutes per side.
- D. All persons wishing to speak longer than three (3) minutes during one side's ten (10) minute argument period must register their intent to do so with the Secretary of the Board not later than the time of the meeting of the Hearings Board at which the administrative hearing on the item before the Hearings Board is to be conducted is first called to order. A sign-up sheet for persons wishing to speak longer than three (3) minutes will be placed on the table at the meeting entrance door along with the agenda and attendance sheet for the meeting. The sign-up sheet will be collected by staff at the start of the meeting for the Chairman's review and allotment of time.
- E. In the event that all persons wishing to speak longer than three (3) minutes as a part of one side's ten (10) minute argument are not able to agree how that side's ten minute argument period shall be allocated, they shall inform the Chairman of their disagreement before either side begins its 10-minute argument, in which event the Chairman shall decide and announce the manner in which that side's ten (10) minute argument period shall be allocated. Any Board member dissatisfied with the Chairman's allocation of that side's ten (10) minute argument shall have the right to

appeal the Chairman's allocation decision to the Board before either side begins its ten- (10) minute argument.

- F. After the supporters and opponents of the item before the Hearings Board have concluded their ten (10) minute arguments, any person who has not yet spoken either for or against the item before the Hearings Board shall be allowed to address the Hearings Board concerning the item before the Hearings Board for no longer than three (3) minutes per person.
- G. (1) When an agenda item is set for hearing before the Board for the first time, the Hearings Board shall accept a petitioner's request to table the item for hearing at another regular meeting of the Board without requiring a hearing on the merits of the request to table if the request to table is made in writing and received by the Hearings Board staff or by the Chair prior to the meeting being called to order. The petitioner shall request a specific regular meeting date for the hearing within three (3) months.
- (2) In the event an agenda item has been tabled previously and/or has been presented to the Board for consideration or a written request to table is not made as required in paragraph (1) above, a petitioner's request to table the item is subject to a Board hearing on the merits of the request to table. If the Board votes to table the request, the hearing shall be set for the next regular meeting of the Hearings Board unless the Board determines additional time is needed.

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Genie Smith Bernstein, Chair

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Brad Griffin, Secretary