

**TOWN OF MOUNT PLEASANT, SOUTH CAROLINA**  
**BOARD OF ZONING APPEALS**  
**RULES OF PROCEDURE**

**I. Organization**

**1. Rules**

These rules of procedure, also known as bylaws, are adopted pursuant to [S.C. Code of Laws, Title 6, Chapter 29](#), section 790, for the Mount Pleasant Board of Zoning Appeals.

**2. Membership**

Members shall be appointed by Town Council and shall serve without compensation. Members are expected to serve for the entire term of appointment and attend scheduled meetings. Members should notify the Chairman and Secretary in advance if they expect to be tardy or absent. Attendance of each meeting will be recorded and maintained. Members shall abide by the attendance policy outlined in §156.410(C) of the [Mount Pleasant Code of Ordinances](#).

**A. Education Requirements**

Each appointed official must comply with the educational requirements as outlined in [S.C. Code of Laws, Title 6, Chapter 29](#), Article 9 and annually report proof of satisfaction to the Clerk of Council.

**B. Conduct of Members**

- 1) It is the responsibility of a Board member to render a fair and impartial judgment and remain objective. All reasonable efforts shall be made to avoid individual communications with applicants or those with a vested interest.
- 2) A Board member shall avoid the appearance of influence from applicants or those with a vested interest in a request before the Board.
- 3) A Board member should help to maintain the dignity and integrity of the meeting and all who participate.
- 4) Abuse of any meeting participant of any kind will not be tolerated and could be grounds from dismissal by the governing body.
- 5) A Board member, upon recognition by the Chair, shall have the floor until he/she relinquishes it.
- 6) Each Board member who wishes to speak will be afforded the utmost opportunity.
- 7) No Board member shall interrupt while another is speaking, except where otherwise provided in the rules.
- 8) No Board member should speak twice in a matter until all members have been afforded the opportunity to speak once.
- 9) Individual Board members may express their views or request information without limitation on any subject provided that no member of the Board shall speak for the Board except as may be directed by the Board. In all circumstances, members should exercise care to ensure that their statements and opinions are understood to be solely those of the members.
- 10) The Board members shall refrain from initiating or responding to private communications (including but not limited to emails, instant messages, text

messages, etc.) during the meeting. All electronic devices shall be silenced or turned off during the meeting.

- 11) The Board members shall refrain from initiating, commenting, or responding on social media on any matter before the Board as such communication creates an appearance of an inability to render an impartial and objective decision on an agenda item.

#### **C. Conflict of Interest**

Members shall abide by the provisions outlined in the [S.C. Code of Laws, Title 8, Chapter 13](#), section 700(B)(1) and (5) pertaining to conflict of interest. Recusals are permissible pursuant to these provisions.

#### **D. Ex parte communication**

As applicable, each appointed official must comply with the requirements regarding ex parte communication as outlined in [S.C. Code of Laws, Title 1, Chapter 23, Article 3](#). The provisions of this section shall apply from the date the matter pending before the Board commences to and including the effective date of the final decision.

### **3. Officers**

The officers of the Board shall be a chairman and vice-chairman elected for one-year terms at the first regularly scheduled meeting of the Board in each calendar year. Members of staff of the Town shall serve as secretary and recording secretary of the Board.

#### **A. Chairman**

The chairman shall be a voting member and shall:

- 1) Call special meetings;
- 2) Preside at meetings and hearings;
- 3) Swear in witnesses when applicable;
- 4) Act as spokesperson for the Board; and
- 5) Perform other duties approved by the Board.

#### **B. Vice-chairman**

The vice-chairman shall exercise the duties of the chairman in the absence, disability, or disqualification of the chairman. In the absence of the chairman and vice-chairman, an acting chairman shall be elected by the members present.

#### **C. Secretary**

The secretary, when applicable, shall:

- 1) Provide public notice of appeals and meetings;
- 2) Prepare the agenda;
- 3) See that the property involved is properly posted;
- 4) Keep and maintain Board records as public records;
- 5) Serve Board decisions on parties;
- 6) Attend to Board correspondence; and
- 7) Perform other duties normally carried out by a secretary.

#### **D. Recording Secretary**

The recording secretary, when applicable, shall:

- 1) Assist with meeting room setup;
- 2) Ensure recording and A/V equipment are available and setup as needed;
- 3) Attend and record each meeting in accordance with Town procedures;
- 4) Prepare minutes from the recorded meetings in accordance with Town procedures; and
- 5) Serve as support staff to Secretary.

## **II. Meeting Procedures**

### **1. Time and Place**

An annual schedule of regular meetings shall be published each year and posted for the public. Special meetings may be called by the chairman upon at least 24-hour notice and must be posted for the public. Meetings shall be held at the place stated on the notices and shall be open to the public.

### **2. Agenda**

#### **A. Order of Agenda**

An agenda shall be furnished by the Secretary and posted in accordance with the [S.C. Freedom of Information Act](#). As applicable, agenda items will be listed as outlined in section II.3 of these rules of procedure in the following order:

- 1) Approval of Agenda
- 2) Approval of Minutes
- 3) Public Comment
- 4) General Correspondence
- 5) Administration of Oath
- 6) Business (Article II, Section 2, B below)
- 7) Adjournment

#### **B. Order of Business**

Business items shall be placed after the administrative items (Article II, 2, A, 1-5), in the order as numbered and according to the date and time received:

- 1) Items required by ordinance or rules which typically include applications from the public requiring action of the body.
- 2) Matters submitted by Council or departmental staff for the body's consideration.
- 3) Matters proposed by a member of the body with at least one additional sponsoring board member initiated at least one meeting in advance of consideration and having received an affirmative vote for inclusion by the body.
- 4) Applications and other Items may be removed from the agenda at a meeting by a majority vote.

### **3. Applications**

A. Requests to be heard before a Board shall be made by submitting the appropriate application form(s) approved by the Department of Planning and Development in

accordance with the submittal deadline published on the annual schedule of meetings. The application may be filed by the applicant or his or her designee.

- B. Applications may require a submittal and review fee in an amount specified by the schedule of fees established by the Town.
- C. Failure to submit required information or forms and applicable fees may be grounds for rejection of the application.
- D. Requests not permitted or prohibited according to the Mount Pleasant Code of Ordinances shall be rejected unless relief has been sought from the appropriate governing body or appellate body.
- E. Applications shall be marked with the date of receipt and placed on the agenda in the order in which it was received.
- F. Any changes, alterations, or additions to plans after final disposition of the request shall require a new application and applicable fee.

#### **4. Quorum**

The number of members that constitute a quorum shall be pursuant to [Mount Pleasant Code of Ordinances](#), §156.410(E). A quorum shall be present before any business is conducted other than rescheduling a meeting. Those recusing themselves for a conflict of interest pursuant to [S.C. Code of Laws, Title 8, Chapter 13](#), section 700(B)(1) and (5), remaining present, shall be counted as present for the purposes of establishing a quorum.

#### **5. Rules of Order**

Robert's Rules of Order shall govern the conduct of meetings except as otherwise provided by these Rules of Procedure.

### **III. Hearing Procedures**

#### **1. Conduct of Hearing**

In matters brought before the Board, the following process and time limits will be followed:

- A. Chair or designee opens the hearing (reads agenda item)
- B. Staff presentation (5 minutes)
- C. Applicant presentation (5 minutes)
- D. Public comments (Up to 3 minutes per speaker as determined by §30.36)
- E. Board/Commission Questions
- F. Applicant and staff response (Up to 3 minutes each)
- G. Chair or designee closes public comment
- H. Board comments and deliberation
- I. Board Disposition (motion and vote)

The times set above may be changed on majority acceptance of a motion to suspend the rules with a new time set.

#### **2. Appearance**

The applicant or any party in interest may appear in person or by agent or attorney. In the absence of an applicant, the Board may decide by a majority vote to either postpone the matter or proceed with hearing the matter.

### 3. Evidence

Relevant documents, photographs, maps, plans, drawings, etc., will be received in the record without authentication in the form of legible copies. Relevant testimony which is not cumulative or hearsay will be received. The Chair or designee will rule on all evidentiary matters. Evidence may be placed in the record with an objection noted.

### 4. Witnesses

Testimony by each witness shall be presented under oath. The oath shall be administered by the Chair or the Chair's designee.

### 5. Public comment

Public comment shall be allowed in accordance with the provision of the [Mount Pleasant Code of Ordinances §30.36](#) (Ord 19016). Public comment is not a question and answer period or dialogue between the Board or public at any point during the meeting.

Except for public hearings, no person shall speak at a meeting unless invited to do so by the Board.

The Chair or designee will recognize and accept testimony and public comment from all who wish to be heard. No person speaking on an agenda item shall be subject to cross-examination. All inquiries or questions from the public during the meeting shall be posed to the Board and not the applicant or other member of the public. Board members shall refrain from making comments and/or asking questions during the applicant presentation or public comment.

Irrelevant testimony or public comments will not be accepted, nor will the reading of repetitious letters or petitions be permitted by the public. These documents may be filed with the Secretary so that the record will show the names of the persons supporting or opposing an application.

Upon the conclusion of the presentations and public comment, each Board member will have an opportunity to ask questions. Upon the close of the public hearing or public comments, no further testimony or comments will be heard from the public. The Board will then make final comments and deliberation of the request prior to a motion being made. Errors of fact may be corrected at any time after the close of the public hearing or public comments.

### 6. Correspondence

Written correspondence related to agenda items for the Board shall be submitted to the Town two business days prior to the meeting day in order to be published with the agenda for the public. Correspondence received after that date, will not be forwarded to the Board.



## 7. Cross examination

No party shall have the right to cross-examine witnesses; however, the Board may cross examine or question speakers with opposing viewpoints **wh**en conducted in an orderly manner. Intimidation of speakers will not be allowed.

## 8. Electronic Devices

All electronic devices shall be silenced, turned off, or left outside the meeting room or building during the meeting.

## 9. Disposition or Action by the Board

### A. Disposition

The Board may deliberate and either 1) approve, 2) approve with conditions, 3) defer, or 4) deny a matter by a majority vote of members present at the hearing and qualified to vote, provided that not less than a quorum is present. Deliberations shall be conducted in public and voting shall be in public for the record. All decisions by a Board shall include findings of fact pursuant to [S.C. Code of Laws, Title 1, Chapter 23](#), section 350.

#### 1) Approve

The Board may approve a matter as submitted.

#### 2) Approval with conditions

The Board may approve a matter with conditions. The conditions should be clearly and distinctly enumerated and when applicable must include a timeframe for compliance.

#### 3) **Deferral Request by the Applicant**


Parties filing appeals or applications may, after the application has been advertised as part of a meeting's agenda, request that the application be deferred. A request for deferral must be made in writing, signed (or sent via electronic mail) by the applicant or agent, and must specify an extraordinary and compelling reason for the deferral. The Board must vote to approve or deny the request for deferral. Without an extraordinary and compelling reason, only one deferral shall be permitted. The deferred item shall be placed on the agenda of the next regular meeting. An item may be only be deferred one time.

#### 4) Deferral by the Board

An appeal or application may be deferred by the Board upon its own motion. Deferred requests are not considered approved and the request must be resubmitted to the Board for review. A member may vote on a matter that the member was not present for when the matter was initially heard.

The deferred item shall be placed on the agenda of the next regular meeting. An item may be only be deferred one time.

**5) Denial**

Matters before the Board for final disposition that are denied shall not be resubmitted for a period of twelve months, regardless of change(s) in ownership. 

**6) Continuance by the Board**

The hearing of an appeal or application may be continued for a time specified by the Board upon its own motion. If a decision has not been rendered within the specified timeframe, the original request will be placed on the next meeting agenda to be heard and the applicant notified of the date and time of hearing.

**7) Continuance by the Applicant**

Parties filing applications or appeals may upon a showing of good cause, request that the application be continued for a specified amount of time. A request for a continuance must be made in writing, signed (or sent via electronic mail) by the applicant, or agent and must specify a reason for the continuance. Upon its own motion, the Board may either approve the request for a continuance or proceed to hear the request. Without an extraordinary and compelling reason, only one such continuance shall be permitted. If a decision has not been rendered within the specified timeframe, the original request will be placed on the next meeting agenda to be heard and the applicant notified of the date and time of hearing.

**8) Withdrawal**

A request may be withdrawn by the applicant or designee upon written notice (or sent via electronic mail) delivered to the Secretary prior to action by the Board. Applications withdrawn by the applicant shall be considered a termination of the application, except as specifically outlined in the [Mount Pleasant Code of Ordinances, §156.031](#). Resubmission of withdrawn applications may be refiled after six months and shall be placed on the agenda according to the date refiled except as specifically outlined in the [Mount Pleasant Code of Ordinances, §156.031](#). Resubmissions shall be processed as a new application with all prescribed fees and other requirements met.

An appeal which is withdrawn may not be refiled after the time for appeal has expired.

**10. Voting**

All eligible Board members present are expected to vote. A Board member absent at a previous review of a request is eligible to vote on subsequent review of the same request. Voting shall be by voice, except where specifically outlined in the Mount Pleasant Code of Ordinances. An abstention from a vote or failure of a member to vote shall be considered a nonvote. Recusals are only allowed pursuant to [S.C. Code of Laws](#) and as outlined in section II.6.c. of these rules of procedure. A roll call vote can be requested by any member of the Board. Board members not present may not vote.

**A. Tie votes**

In the event of a tie vote on any given motion, the Board shall endeavor to either approve or disapprove an applicant's request through subsequent motions and votes. If, after at least one additional attempt, the board remains deadlocked as determined by the Chair or designee, no further motions are necessary, no final decision has been made and the matter is unresolved. The applicant may then return at a subsequent meeting for further consideration of the relief requested. Since no final decision has been rendered, a return will not be considered a rehearing; rather, it will be considered a new hearing. All Board members, including those that had not participated in the original hearing may participate in the new hearing. Those that previously participated must do so with an open mind to the new proceedings. Any member prejudiced otherwise shall state so on the record and must not participate.

**B. Vested Rights**

A request approved by the Board may be vested in accordance with the [S.C. Code of Laws, Title 6, Chapter 29](#), Article 11 and [Mount Pleasant Code of Ordinances §156.049](#).

**11. Appeals of Board Decision**

Any person aggrieved by a decision of the Board may appeal to the appropriate appellate body. The appeal must be filed in a timely manner as outlined by the [S.C. Code of Laws, Title 6, Chapter 29](#), section 820.

**IV. Records**

**1. Minutes**

The Recording Secretary shall record all meetings and hearings of the Board. The Recording Secretary shall prepare a transcription of minutes of each meeting for approval of the Board. Minutes shall include, at a minimum the following information:

- A. Title and date of the meeting
- B. Board/Commission members present and absent
- C. Staff members in attendance
- D. Time meeting was called to order
- E. Any action taken by the Board/Commission and final disposition of agenda items
- F. Time meeting adjourned
- G. Name of transcriptionist

Recordings and minutes shall be preserved and maintained as public records according to the [S.C. Code of Laws, Title 30, Chapter 1](#) and the Town of Mount Pleasant document retention schedule.

**2. Orders and Documents**

Where applicable, the Secretary shall prepare and serve all orders of the Board. Copies of all notices, correspondence, documentary evidence, orders, reports, and forms shall



be maintained as public records in accordance with the [S.C. Code of Laws, Title 30, Chapter 1](#) and the Town of Mount Pleasant document retention schedule.

**A. Form and Service of Order**

The secretary shall assist in the preparation and service of all orders of the Board in the appropriate form to each party of interest as outlined in the S.C. Code of Laws and the Mount Pleasant Code of Ordinances §156.411(E).

**B. Reports**

The secretary shall assist in the preparation and forwarding of all reports in the appropriate form to the Board members.

**V. Adoption and Amendments to Rules of Procedure**

**1. Adoption**

The Board shall approve adoption of the Rules of Procedure by majority vote of the members on an annual basis as outlined by the Mount Pleasant Code of Ordinances. The Secretary shall note the date of adoption on the Rules of Procedure as follow:

These rules were adopted by a majority vote of the members of the Board at the meeting held on January 27, 2020.

**2. Amendments**

These rules may be amended at any regular Board meeting by majority vote of the members at least seven days after the written amendment is delivered to all members and upon appropriate notice to the public.