

**BY-LAWS OF THE
GREENE COUNTY BOARD OF ZONING APPEALS**

ARTICLE I. GENERAL INFORMATION

- 1.1 Name of the Board. The name of the Board shall be the Greene County Board of Zoning Appeals, as established and provided for by Tennessee Code Annotated §13-7-106.
- 1.2 Office of the Board. The office of the Board is the Greene County Building/Planning/Zoning Department located at 129 Charles Street, Suite 2, Greeneville, TN 37743.
- 1.3 Creation of Bylaws. These supplemental rules of procedure, or by-laws, are created pursuant to Tennessee Code Annotated §13-7-107.
- 1.4 For the purposes of these by-laws "Building Commissioner" is inclusive of the terms "Building Official", "Zoning Administrator", "Zoning Commissioner", "Codes Enforcement Officer", and any other term used in any Greene County document, Tennessee Code Annotated, or adopted building code, that refers to the person overseeing administration of the Greene County Zoning Resolution.
- 1.5 These bylaws, as adopted, shall be made an addendum to the Zoning Resolution.

ARTICLE II. POWERS OF THE BOARD

- 2.1 Who May Request Action by the Board. Anyone may appeal a decision of the Building Commissioner that has been based, in part or in whole, on the zoning resolution or other regulations developed as per T.C.A. §13-7-102, including individuals, firms or corporations, any governmental office, department, board or bureau, or anyone else aggrieved by the decision.
- 2.2 Powers of the Board
 - 2.2.1 Appeals. The Board shall hear and decide appeals where the appellant charges that there is an error in any order, requirement, decision or refusal made by the Building Commissioner in carrying out or enforcing the zoning resolution or any ordinance enacted pursuant to T.C.A. §13-7-109.
 - 2.2.2 Special Exceptions and Special Questions.
 - 2.2.2.1 The Board shall hear and decide requests for special exceptions as listed in the zoning resolution and as permitted under T.C.A §13-7-109.
 - 2.2.2.2 The Board shall hear and decide requests for interpretation of the zoning resolution and shall make decisions upon other special questions as authorized by any resolution or ordinance, as per T.C.A. §13-7-107 and the zoning resolution.

- 2.2.2.3 The Board shall interpret the zoning maps and determine disputed questions of district boundary lines or similar questions as they arise in the administration of the zoning resolution as per T.C.A. §13-7-107 and the zoning resolution.
- 2.2.3 Variance Requests. The Board shall hear and decide variance requests:
- 2.2.3.1 For lots of record at the time of adoption of the zoning resolution that are exceptionally narrow, shallow or shaped in such a way that the strict application of the regulations would create exceptional practical difficulties to or exceptional and undue hardship upon the owner of such property; or
- 2.2.3.2 For any lot or tract which has exceptional topographical conditions or other extraordinary or exceptional situations or conditions that would result in exceptional practical difficulties to or exceptional and undue hardship upon the owner of such property; and
- 2.2.3.3 When relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the zoning resolution; and
- 2.2.3.4 The Board may attach conditions regarding the location, character and other features of the proposed building structure or use as it may deem advisable in furtherance of the purpose of this resolution; and
- 2.2.3.5 Provided that before any variance is granted it shall be shown that special circumstances are attached to the property which do not generally apply to other property in the neighborhood.

III. APPOINTMENT, REMOVAL, AND COMPENSATION OF MEMBERS

- 3.1 Members. The Board is composed of regular and associate members.
- 3.1.1 Regular members. The Board has five (5) regular, or voting, members.
- 3.1.2 Associate members. The Board has two (2) alternate, or associate members.
- 3.1.2.1 If a regular member is temporarily unable to attend a Board meeting an associate shall be designated by the Chair or the Acting Chair, which is the vice-Chair acting in the Chair's absence, to serve as a regular member and vote on issues before the Board.
- 3.1.2.2 If a regular member is unable to participate in discussion and voting on a particular issue before the Board, whether because of a conflict of interest or other reason, an associate shall be designated by the Chair/Acting Chair, to serve as a regular member and vote on that issue.

- 3.1.2.3 Associates are considered full members of the Board and hold the same responsibilities and obligations as regular members, including training, participation in discussion at the meeting, etc., but vote only when appointed to do so in the absence of a regular member.
- 3.1.2.4 If only one (1) associate is needed to serve as a regular member, the associate with the longest term on the Board shall be the first appointee.
- 3.1.2.5 If both associate members are appointed on the same day, the associate appointed to serve as the temporary regular member shall be selected by the Chair/Acting Chair.
- 3.1.2.6 Associates shall alternate when acting as voting members so that the same associate is not selected at successive meetings.

3.2 Selection of Board Members

- 3.2.1 To ensure parity and avoid the appearance of impropriety Board members shall be selected in keeping with the intent of the following:
 - 3.2.1.1 Effort shall be made to select Board members from a variety of socio-economic groups, geographical areas, and occupations (including homemakers).
 - 3.2.1.2 No more than two representatives from each type of development-related occupations (such as surveyor, engineer, realtor, developer, planner, and the like) shall be appointed to the Board at the same time.
 - 3.2.1.3 No more than one Board member shall be appointed from the same business.

3.3 Vacancy of Board Members.

- 3.3.1 Any vacancy in the membership of the Board shall be filled through appointment by the Mayor subject to confirmation by the County Legislative Body.
- 3.3.2 The replacement member shall serve for the length of the unexpired term.
- 3.3.3 Associate members may be appointed as regular members.

3.4 Removal of Board Member. The County Legislative Body may remove a member of the Board for cause specified in writing served on the member and after a hearing, of which such member shall be given not less than fifteen (15) days' written notice.

3.5 Compensation.

- 3.5.1 Compensation for the members is set by the County Legislative Body.
- 3.5.2 Compensation shall only be provided after each Board member, at the end of each meeting, signs a record of attendance form provided by staff, affirming their attendance at the meeting.

3.6 County Legislative Body Members.

- 3.6.1 No more than two Board members shall be members of the County Legislative Body.
- 3.6.2 One member shall be appointed to a one year term, and the second for the length of their elected term as a member of the County Legislative Body.

ARTICLE IV. OFFICERS

- 4.1 The officers of the Board shall be a Chair, Vice-Chair, and Secretary, who shall be selected from among the regular members.
- 4.2 Responsibilities of Officers.
 - 4.2.1 The Chair shall:
 - 4.2.1.1 Preside at all meetings and hearings of the Board, appoint any committee that may be found necessary, and swear in witnesses.
 - 4.2.1.2 Decide all points of order or procedure, including limiting discussion that is not relevant to the issue being discussed.
 - 4.2.1.3 Not permit any derogatory comments, whether from Board members, staff, or the audience.
 - 4.2.1.4 Stop all cross conversation by having comments and questions directed to the Chair.
 - 4.2.1.5 The Chair votes to break a tie or when acting as a third member to create a quorum.
 - 4.2.2 Vice-Chair. In the absence or incapacity of the Chair, or at the Chair's request, the vice-Chair shall perform the duties of the Chair.
 - 4.2.3 Secretary. The secretary is responsible for recording information at meetings and work sessions, including motions, justifications for action, and the Board member making the motion and second, as well as signing the meeting minutes following their approval by the Board.
- 4.3 Election of Officers.
 - 4.3.1 The Board shall elect officers at the Board meeting following approval of new Board members by the County Legislative Body.
 - 4.3.2 If no new members are appointed, the election shall be held at the October meeting or, if there is no other business, the first meeting held thereafter.
 - 4.3.3 Officers will serve until their successors are elected, provided their terms of office have not elapsed.
 - 4.3.4 If the Chair's term of office elapses prior to the meeting where new officers are elected, the vice-Chair shall conduct the election.

- 4.3.5 Terms of elected officers shall be for one (1) year.
- 4.4 Vacancy of Office. Should the office of Chair, vice-Chair or secretary become vacant the Board shall, at the meeting where the vacancy is first noted, elect a successor in the manner prescribed for the election of such officer and such election shall be for the unexpired term of said officer.

ARTICLE V. BOARD STAFF

- 5.1 The Building Commissioner shall make provisions for staff support for the Board including, but not limited to, the following:
- 5.1.1 Providing a contact for those seeking action by the Board.
 - 5.1.2 Providing a contact for members of the public who are interested in potential action by the Board.
 - 5.1.3 Researching and compiling information that is necessary for the Board to make an informed decision.
 - 5.1.4 Presenting all relevant information, both supporting and contrary to the issue, to the Board, the applicant, and interested citizens.
 - 5.1.5 Preparing and publishing a public notice or agenda for Board meetings and work sessions.
 - 5.1.6 Handling correspondence for the Board, taking notes at meetings, and preparing the minutes for review by the Board.
 - 5.1.7 Creating and maintaining a file of all information relevant to any action requested of the Board, including the application, data generated or collected by staff, data presented at the meeting, and resolution of the issue.
- 5.2 Staff shall make use of other departments and agencies as needed in their research.

ARTICLE VI. ACCESS TO INFORMATION

- 6.1 Access to Public Records. This section has been specifically adapted for the Greene County Building/Planning/Zoning Department from Greene County's "POLICY FOR THE INSPECTION AND COPYING OF PUBLIC RECORDS UNDER THE TENNESSEE OPEN RECORDS LAW".
- 6.1.1 General Information.

- 6.1.1.1 All public records made or received in connection with the transaction of business in the Greene County Building/Planning/Zoning Department, shall be available for review during business hours.
- 6.1.1.2 I&R is not required to create records or compile information.
- 6.1.1.3 Requests to inspect a record may be required in writing.
- 6.1.1.4 Requests for copies of records must be made using the Request to Inspect/Copy Public Records form.
- 6.1.1.5 Persons requesting to inspect and/or copy records must show proof of Tennessee citizenship with a government-issued photo identification card including the person's address (i.e., driver's license, voter's registration, etc.).
- 6.1.1.6 Media Requests. Requests to inspect/copy records submitted by a representative of the news media (newspaper, radio, television, magazine, etc.) must be made through the County Mayor's Office or the Office of the County Attorney, which will arrange for the inspection or copying of the records.
- 6.1.1.7 Records Custodian.
 - 6.1.1.7.1 The Planning Coordinator is the Records Custodian for all I&R records relating to the Board of Zoning Appeals and Planning Commission, as well as any other information submitted to or created by planning staff of the I&R department on any topic.
 - 6.1.1.7.2 Any I&R staff member may be appointed as a records custodian designee.
 - 6.1.1.7.3 For the purposes of these by-laws, the term "Records Custodian" also includes designees.
- 6.1.1.8 Public records may only be inspected in the presence of the Records Custodian, and at no time will records leave their possession.
- 6.1.2 Inspection/Copying of Records
 - 6.1.2.1 The goal, above and beyond what is required by the "Policy for the Inspection and Copying of Public Records", is for the Records Custodian to make records available upon request, provided:
 - 6.1.2.1.1 Records shall not be available for inspection by any non-I&R staff member if they have not been reviewed by the appropriate staff member(s).
 - 6.1.2.1.2 Records shall not be copied for any non-I&R staff member prior to this staff review.
 - 6.1.2.2 If immediate release is not possible the secondary goal is to make the records available within 24 hours, if the next day is a work day, or if the day

following submission of the request is not a work day, to make the records available by 4:00 p.m. on the next work day.

- 6.1.2.3 If the records are not available in this time frame, e.g., the records are being reviewed by County Attorney, are being used for official business, etc., they shall be provided within seven (7) business days, as per the records policy.
 - 6.1.2.3.1 The reason why the records are not available shall be provided to the requestor.
 - 6.1.2.3.2 A completed “Inspection/Duplication of Records Request” form shall be completed, dated to the date the request was first made, to provide a written record of when the request was initiated.
- 6.1.2.4 The policy provides that, if the record cannot be produced within seven (7) business days, e.g., they are filed in archives, being used for official business, or other reason:
 - 6.1.2.4.1 The reason why the records are not available shall be provided to the requestor.
 - 6.1.2.4.2 The requestor shall submit a completed “Inspection/ Duplication of Records Request” form, if one has not already been submitted, dated to the date the request was first made.
 - 6.1.2.4.3 The requestor shall be advised when the record(s) will be available and a “Records Production Letter” shall be provided.
 - 6.1.2.4.4 All efforts will be made to provide the records within a reasonable period of time.
- 6.1.2.5 Copying of Large Documents. Because plans and plats are normally submitted on paper measuring at least 18" x 24", and there is no equipment in the Building/Planning/Zoning Department that can make copies of this size, staff will:
 - 6.1.2.5.1 Take the plans/plats to other County offices that have the equipment to make large copies, where the person requesting the information will pay the copy charge and pick up the papers; or
 - 6.1.2.5.2 Make arrangements to meet the requestor at a business capable of making the copies, where they shall pay the business for the copies, which will be immediately given to them; and
 - 6.1.2.5.3 Provide the copies within seven (7) days of the request being submitted, the longer time frame needed because I&R staff does not have control over other departments or independent businesses.
- 6.1.2.6 Electronic Records

6.1.2.6.1 Copies of electronic information shall be provided within the same time frames as noted above.

6.1.2.6.2 Electronic files shall not be forwarded or released to non-I&R staff members unless they are tamper proof.

6.2 Confidential Information Provided to Staff. The BZA has developed guidelines for staff on how to balance the need to keep certain information confidential while providing public access to information.

6.2.1 Confidential information is not part of the public record when:

6.2.1.1 It is only provided verbally; or

6.2.1.2 It is shown in a physical form, as on paper or a digital file, but staff does not have a physical copy of the information; and

6.2.1.3 It does not influence staff recommendations about the project.

6.2.2 Confidential information shall be part of the public record when:

6.2.2.1 It is provided to staff in a physical form, such as a digital file or paper; or

6.2.2.2 It influences staff recommendation about the project.

6.2.3 Staff Action.

6.2.3.1 Before accepting any physical representation of confidential information staff shall make the developer aware of these standards.

6.2.3.2 Verbal Source of Confidential Information. Staff shall:

6.2.3.2.1 Inform the developer that the confidential information will be made public if, at any point, it influences staff's recommendation to the Board of Zoning Appeals.

6.2.3.2.2 Make the developer/representative aware that, in such an instance, they would be provided the opportunity to withdraw the project in order to protect confidentiality.

6.2.3.2.3 If the item is withdrawn and resubmitted at a later date, and no confidential information is provided at that time, staff will not disclose the previously discussed confidential information.

6.2.3.2.4 If a proposal is resubmitted staff shall, as should be done for all proposals, consider the worst case scenario for the proposal, and make their recommendation accordingly.

6.2.3.2.5 If the same proposal is resubmitted there shall not be a second charge for the resubmission.

6.3 Information Provided to BZA Members

- 6.3.1 BZA members in possession of confidential information about any issue before them shall make that information known at the meeting, or shall abstain completely from direct or indirect participation as a decision maker.
- 6.3.2 BZA members who have been contacted outside of a public meeting, and have received non-confidential information relevant to the issue at hand, must disclose that information at the meeting.

ARTICLE VII. FORMS

- 7.1 Applications/appeals shall be made on forms provided by the Greene County Building/Planning/Zoning Department.
- 7.2 The fee, application/appeal form, and any other required materials shall be received in the Greene County Building/Planning/Zoning Department no later than 4:00 p.m., twenty (20) calendar days prior to the Board meeting.
- 7.3 The application/appeal form, as well as any information generated as a result of the application or appeal, will be part of the public record, provided that staff will have up to three work days to review the proposal before making it available for public review.

ARTICLE VIII. CASE PROCEDURE

- 8.1 When a completed application form and any applicable fee has been submitted by the deadline, staff shall:
 - 8.1.1 Place the item on the first regular meeting that the applicant or their representative can attend.
 - 8.1.2 Submit a "Notice of Public Hearing" to a newspaper of general circulation in Greene County, with publication to occur at least fifteen (15) calendar days prior to the hearing.
- 8.2 A request by the Building Commissioner or other Building/Planning/Zoning Department personnel to the Board for interpretation of the Zoning Resolution shall also require a public notice, as per the terms of Section 8.1.2.
- 8.3 Action
 - 8.3.1 The Board will deliberate and either approve, deny, or postpone action on the request.
 - 8.3.2 Reasons for the action shall be stated for the record, being as specific as possible in providing the rationale for the action, using the justifications provided in T.C.A. §13-7-109 and the zoning resolution.

- 8.3.3 The final decision of any application or appeal to the Board shall be approved by a majority of the membership present.
- 8.4 If the Board denies a request/appeal:
 - 8.4.1 The applicant may appeal the Board's decision to Chancery Court; or
 - 8.4.2 The applicant may submit a new request to the Board provided at least one (1) year has passed since the initial denial; or
 - 8.4.3 The applicant may file an addendum to the initial request within the year following the denial, provided:
 - 8.4.3.1 In the opinion of the Building Commissioner, there is new information that could not have previously been discovered by due diligence.
 - 8.4.3.2 A new notice of public hearing must be published.

ARTICLE IX. MEETINGS

- 9.1 Time and Place.
 - 9.1.1 A regular meeting of the Board shall be held on the fourth Wednesday of each month at 8:30 a.m. at the Greene County Annex Conference Room, located at 204 N. Cutler Street, Greeneville, Tennessee.
 - 9.1.2 An alternate time or place may be designated by the Building Commissioner, with approval of the Board Chair, if the regular meeting date falls on a holiday, the regular meeting place is not available, or for such other reason deemed necessary by staff or the Chair.
- 9.2 A meeting is not required to be held if there are no requests or other business to be considered.
- 9.3 A quorum shall consist of three (3) members of the Board, with any mixture of regular and/or associate members used to constitute the quorum.
- 9.4 The order of business at all regular meetings of the Board shall generally be as follows:
 - 9.4.1 Call to order;
 - 9.4.2 Roll call of members by recording secretary;
 - 9.4.3 Motion to adopt the agenda.
 - 9.4.4 Approval of minutes of previous meeting;
 - 9.4.5 Swearing of witnesses by the Chair/Acting Chair;
 - 9.4.6 Reading of agenda item by the Chair;
 - 9.4.7 Old Business, if any.

- 9.4.8 Description of case by staff and/or other governmental representatives such as the Planning Coordinator.
- 9.4.9 Public statement by Board members, if any, that have a potential conflict of interest in any case before the Board, naming the case in question, and their intention to recuse themselves.
- 9.4.10 Statements by the County Attorney, if necessary;
- 9.4.11 Questions by Board members to staff or the applicant, if needed, to clarify the issue.
 - 9.4.11.1 Discussion shall not take place at this time.
 - 9.4.11.2 Board members shall not question anyone other than staff or the applicant, and shall not request recognition of audience members.
- 9.4.12 Chair opens public hearing for statements by all interested parties.
 - 9.4.12.1 Each person shall have three minutes to make statements, except that persons acting as a representative for a group may have five minutes.
 - 9.4.12.2 Time spent answering questions from the Board shall not be considered part of the three minute statement period.
 - 9.4.12.3 While Board members may question audience members, cross conversations are not permitted.
 - 9.4.12.4 Derogatory comments towards staff, Board, or audience members shall not be permitted and, after one warning from the Chair, the Chair may have the person making the comments removed from the room.
- 9.4.13 Deliberation and disposition by the Board of the case(s).
 - 9.4.13.1 Members shall not speak against their own motions.
 - 9.4.13.2 Remarks shall be confined to the merits of the pending question.
 - 9.4.13.3 The Board member making the motion has the first opportunity for discussion.
 - 9.4.13.4 Board members shall not speak twice during the discussion period until every member has had one opportunity to speak, and shall only speak twice on the same issue on the same day, provided that members may respond to questions.
 - 9.4.13.5 All remarks/questions shall be addressed through the Chair.
 - 9.4.13.6 Board members shall refrain from speaking on a prior action not pending.
 - 9.4.13.7 Board members shall not read from reports or papers without permission of the Chair/Acting Chair.
 - 9.4.13.8 There shall be a three minute time limit for each of the two discussion periods permitted per Board member.

9.4.14 Repeat steps 9.4.8 through 9.4.13 for any additional case(s).

9.4.15 Unfinished business, if any, to be conducted as per Sections 9.4.9 through 9.4.13.

9.4.16 New business, if any, to be conducted as per Sections 9.4.9 through 9.4.13.

9.4.17 Adjournment

9.5 Minutes.

9.5.1 Minutes that have not been approved by the Board must have "draft" written as a watermark through the body of the minutes.

9.5.2 The secretary may sign and distribute minutes immediately following their approval.

9.5.3 The only signature block on the minutes is for the secretary.

9.6.4 If the secretary is not available, the Chair/Acting Chair, may sign the approved minutes.

9.6 Swearing of witnesses.

9.6.1 As per Section 9.4.6 of these by-laws, all persons presenting evidence to the Board shall be placed under oath, including the applicant, neighbors, governmental staff members, surveyors, attorneys, engineers, and real estate agents.

9.6.2 The Chair shall, at the beginning of each public hearing, confirm that witnesses have been sworn and remind them that they are testifying under oath.

9.6.3 The form of the oath is as follows: "Do you solemnly swear or affirm that the evidence you shall give to the Board in this action shall be the truth, the whole truth, and nothing but the truth?"

ARTICLE X. ETHICS

10.1 In 1992 the American Planning Association adopted "Ethical Principles in Planning", which apply not only to professional planners but to planning commissioners and members of Boards of zoning appeals.

10.2 Standards for planners, planning commissioners, and Board of zoning appeals members is set high, with the goal of avoiding the appearance of impropriety. As such, the following guidelines have been specifically adopted for staff and Board members, who shall:

10.2.1 Exercise fair, honest and independent judgment in their roles as decision makers;

10.2.2 Make public disclosure of all "personal interests" they may have regarding any decision to be made as a decision maker;

- 10.2.3 Define "personal interest" broadly to include any actual or potential benefits or advantages that they, a spouse, family member or person living in their household might directly or indirectly obtain from a Board decision;
- 10.2.4 Abstain completely from direct or indirect participation as a decision maker in any matter in which they have a personal interest.
- 10.2.5 Seek no gifts or favors, nor offer any, under circumstances in which it might reasonably be inferred that the gifts or favors were intended or expected to influence a participant's objectivity as a decision maker in the planning process;
- 10.2.6 Not use confidential information acquired in the course of their duties to further a personal interest;
- 10.2.7 Not misrepresent facts or distort information for the purpose of achieving a desired outcome;
- 10.2.8 Not participate in any matter unless adequately prepared and sufficiently capacitated to render thorough and diligent service; and
- 10.2.9 Respect the rights of all persons and not improperly discriminate against or harass others based on characteristics which are protected under civil rights laws and regulations.

ARTICLE XI. TRAINING AND CONTINUING EDUCATION

- 11.1 Each Board member shall, within one (1) year of initial appointment and each calendar year thereafter, attend a minimum of four (4) hours of training and continuing education in one (1) or more of the subjects listed in T.C.A. §13-7-106(b)(5).
- 11.2 Each full-time Building Commissioner and other administrative official whose duties include advising the Board shall, each calendar year, attend a minimum of eight (8) hours of training and continuing education in one (1) or more of the subjects listed in T.C.A. §13-7-106(b)(5).
- 11.3 As per §13-7-106(b) (9), the County Legislative Body may, at any time, opt out of this subsection by passage of a resolution. They may also opt back in by passage of a resolution.
- 11.4 Documentation of Training
 - 11.4.1 Staff shall obtain and maintain written documentation signed by a representative of the sponsor of any training and continuing education course for which credit is claimed, acknowledging the fact that the individual attended the program for which credit is claimed.
 - 11.4.2 By December 1 of each calendar year staff shall prepare a written statement for each Board member, and each staff member listed in section 11.2 of these by-laws, that

lists the date of each program attended, its subject matter, location, sponsors, and the time spent in each program.

11.4.3 By December 31 of each calendar year each Board member and staff member listed in section 9.2 of these by-laws, shall certify, by signature, said written statement.

11.5 Cost of Training and Education.

11.5.1 As per T.C.A. §13-7-106(b)(4), the legislative body is responsible for paying the training and continuing education course registration and travel expenses for each Board member and staff member listed in section 9.2 of these by-laws.

11.5.2 Reimbursement of travel costs will not be made to Board members who make other travel arrangements, if transportation has been offered by the County.