



## MEMO

---

**TO: The Board of Appeals**

**DATE: November 8, 2016**

**FROM: Jason Thompson, Director  
Department of Planning and Development**

**SUBJECT: BOARD OF APPEALS BY-LAWS AMENDMENT**

---

With the August 8, 2016 Mayor and Council adoption of Ordinance No. 2016-13 (attached) which amends Section 2-318 of the City Code regarding absences from meetings of the Board of Appeals, the proposed amendment to the Board of Appeals By-laws replaces certain language in Article II, Membership, Appointment, Attendance and Removal of the By-Laws to maintain consistency with the City Code.

In accordance with Article VII, Modification of By-laws, the Board shall consider the proposed amendment with approval by majority vote of the Board of Appeals at any regular meeting, provided the amendment was submitted in writing at a previous meeting and held for 14 days before action by the Board of Appeals.

The proposed draft amendment was presented to the Board of Appeals at the September 14, 2016 Specially Called Work Session and Called Meeting.

### **ACTION REQUESTED:**

Consideration, discussion and action.

### **ATTACHMENTS:**

- Proposed Amendment to the Board of Appeals By-laws
- Ordinance No. 2016-13



## **By-Laws Board of Zoning Appeals City of Snellville, Georgia**

### **Article I Establishment**

Section 1: The Board of Appeals is created per Chapter 2, Administration, Article IV, Boards and Commission, of the City of Snellville Code of Ordinances, and its memberships have been appointed by the Mayor and City Council based on the composition and term requirements as required therein.

Section 2: As allowed by Section 14.2, (A) PROCEEDINGS OF THE BOARD OF APPEALS, of the City of Snellville Zoning Ordinance the Board hereby adopts the rules, procedures, and guidelines for the transaction of its business as referenced herein.

### **Article II Membership, Appointment, Attendance and Removal**

Section 1: The Board of Appeals shall consist of six members who will be residents of the City of Snellville and who shall be appointed by the Mayor with the confirmation of the City Council. Except for the initial appointments the term of the members shall be for two years. For the purpose of nominating the six members, there shall be six Board of Appeals posts, to be designated Board of Appeals, posts 1 through 6.

Section 2: ~~The v~~ Vacancies on the Board of Appeals for unexpired terms shall be filled by nomination by the Board of Appeals and appointment by the Mayor with the confirmation of the City Council. ~~for unexpired terms only.~~

Section 3: Any member of the Board of Appeals who is absent from three consecutive Board of Appeals meetings, ~~in one year period, whether either~~ regular or called, without an approved or reasonable excuse, as determined by the Board of Zoning Appeals Chair, shall automatically be removed from the Board of Appeals. ~~and shall not be eligible for reappointment. Any member of the Board of Appeals who is absent from three Board of Appeals meetings in a one year period shall not be eligible for reappointment.~~ The year shall be counted from July 1<sup>st</sup> through June 30<sup>th</sup>.

Section 4: Members of the Board of Appeals serve at will and may be removed from office by request of the Mayor and the affirmative vote of ~~four~~ three members of the City Council.

### **Article III Elections and Officers**

Section 1: The Board of Appeals shall elect one of its members as Chairperson and he/she shall serve for one year or until such person is reelected or a successor is named. The Chairperson shall conduct the meetings and vote as any other member. A second Board of Appeals member shall be elected from the body as Vice-chairperson and shall serve until such person is reelected or a successor is named. The Vice-chairperson shall conduct the meetings in the absence of the Chairperson.

Section 2: The elections shall be held every year at the regular meeting of the month of July.

Section 3: The Board of Appeals shall appoint a secretary, who may be an officer or employee of the City or the Board of Appeals.

### **Article IV Compensation**

Section 1: The City Council, by ordinance, may provide for the compensation and reimbursement for actual and necessary expenses of the Board of Appeals members.

### **Article V Meetings**

Section 1: The regular meetings of the Board shall be held on the second (2<sup>nd</sup>) Tuesday of each month at 7:30 p.m. at the City of Snellville City Hall, located at 2342 Oak Road, Snellville, Georgia 30078.

Section 2: Special meetings of the Board may be called by the Chairperson, provided public notices are posted as required by law and all members are notified.

Section 3: A quorum shall be present for a meeting of the Board to begin. A majority of the members of the Board (four (4) members) shall constitute a quorum. If a quorum is not attained within twenty (20) minutes of the scheduled meeting time the Chair will reschedule the meeting.

Section 4: All meetings shall be open to the public. The staff is directed to draft an agenda for meetings based on the order of business as follows. The agenda shall be

followed unless the Chair makes a motion to hear items in the agenda out of their assigned order.

1. Consideration of minutes of previous meetings
2. Consideration of Old Business
3. Consideration of New Business
4. Announcements
5. Discussion
6. Adjournment

Section 5: All applications to the Board shall be accompanied by the applicant or agent representing the applicant. Should the applicant or agent for a particular application not be present at the time the subject application is heard, the application shall be moved to the end of the agenda. Should the applicant or agent not be available at the time of reconsideration (second time) at the meeting, the Board shall vote to defer the application to the next available Board meeting within which time the applicant shall have met all applicable deadlines for the resubmittal of material or vote to proceed with the hearing and consideration.

Section 6: Consideration of application by the Board shall be as follows:

1. The Chair identifies the application
2. The staff presents the application to the Board
3. The Board addresses questions to the staff regarding the application
4. The Chair calls for the applicant or representative to present the application
5. The Board addresses questions to the applicant regarding the application
6. The Chair opens the application for public comment
7. The Chair calls for the applicant to present a rebuttal or closing statement
8. The Board addresses the questions to the applicant and staff regarding the application
9. The Chair opens the application for a motion
10. The Chair calls for a second to the motion
11. The Chair calls for the discussion on the motion
12. The Chair calls for a vote on the motion

Section 7: Decision of the Board shall be by a majority vote of the members present. On variances the board may move to approve or partially approve; approve and impose conditions related to the application being considered; deny; deny without prejudice; hold for further study not less than 30 days or next meeting date; or withdraw. A vote on a motion resulting in a tie of the members present shall constitute a failed motion. The Board must take an action on an application if its on a scheduled agenda. An abstention shall be counted as an affirmative vote.

Section 8: The Board/Secretary 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. The Department of Planning and Development shall keep records of its examination and other official actions and shall be available for public record.

## **Article VI Roberts Rules or Order**

Section 1: In the event that a conflict occurs between the rules and procedures of this resolution and Roberts Rules of Order, the rules and procedures of this resolution shall prevail. In all other procedural questions, Roberts Rules of Order shall apply.

## **Article VII Modification of Bylaws**

Section 1: Except for those requirements regulated by the City of Snellville Code of Ordinances, any of these Procedures may be modified by a majority vote of the Board of Appeals at any regular meeting, provided the amendment was submitted in writing at a previous meeting and that said notification contains a full statement of the proposed amendments. Any proposed amendment:

- a. Must include existing and proposed texts.
- b. Must include a statement of the purpose and intended effect of the proposed change.
- c. Must be held for 14 days before it is presented to the Board of Appeals for action.

## **Article VIII Powers**

Section 1: To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by a staff member of the Planning and Development Department in the enforcement of the ordinance.

Section 2: Zoning Variances: Waivers from the Development Regulations; Conditions Governing Applications: Procedures: To authorize upon appeal in specific cases such variance from the terms of the Zoning Ordinance or waiver from the Development Regulations (in the manner set forth in Article 13 of the Development Regulations) as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of the Zoning Ordinance or Development Regulations would result in unnecessary hardship. A variance from the terms of the Zoning Ordinance or waiver from the terms of the Development Regulations shall not be granted by the Board of Appeals unless and until a written application, as

established by the City, for a variance or waiver is submitted with the Department of Planning and Development.

Section 3: In granting any variance or waiver, the Board of Appeals may prescribe appropriate conditions and safeguards in conformity with the Zoning Ordinance and/or Development Regulations.

Section 4: In exercising the above mentioned powers, the Board of Appeals may, so long as such action is in conformity with the terms of the zoning ordinance, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination as ought to be made, and to that end shall have the powers of the Planning and Development Department staff member from whom the appeal is taken.

### **Article IX Standards of Conduct**

Section 1: Each and every member of the Board of Appeals shall:

- Serve the public interest and not profit or advance personal interest; and
- Use resources with efficiency and economy; and
- Treat all people fairly; and
- Use the power of the position for the well being of the community; and
- Listen objectively and openly. Create an environment of honesty, openness, and integrity; and
- Avoid the use of abusive, threatening or intimidating language or gestures directed at colleagues, citizens, or local government personnel during the public meetings and during the performance of public duties; and
- Attend all regularly scheduled meetings relevant to your office; and
- Be informed prior to debate. Make a conscientious effort to be prepared for each meeting; and
- Stay focused on the overall and long range good of the City; and
- Be tolerant. Allow citizens, colleagues, and staff sufficient opportunity to present their views; and
- Be respectful and attentive; and
- Follow rules and procedures.

**AMENDED and APPROVED** this \_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
Marcy Pharris, Chairman, Post 6

\_\_\_\_\_  
Sid Parrott, Vice-Chair. Post 3

*ATTEST:*

\_\_\_\_\_  
Dennis Lawton, Member, Post 1

\_\_\_\_\_  
John Dennis, Secretary

\_\_\_\_\_  
Matthew Czarick, Member, Post 2

*APPROVED AS TO FORM:*

\_\_\_\_\_  
Tim Van Valkenburg, Member, Post 4

\_\_\_\_\_  
Anthony O. L. Powell, City Attorney

\_\_\_\_\_  
Marilyn Swinney, Member, Post 5

STATE OF GEORGIA  
CITY OF SNELLVILLE

**ORDINANCE NO. 2016-13**

AN ORDINANCE TO AMEND ARTICLE IV OF THE CODE OF THE CITY OF SNELLVILLE, TO REPEAL CONFLICTING ORDINANCES AND FOR OTHER PURPOSES

WHEREAS the Mayor and the Council of the City of Snellville, Georgia, the governing body of the City of Snellville, Georgia, desire to amend Article IV of the Code of the City of Snellville;

WHEREAS, the Mayor and the Council of the City of Snellville, Georgia is authorized by O.C.G.A. § 36-35-3 to adopt ordinances relating to its property, affairs and local government; and

WHEREAS, the Mayor and Council of the City of Snellville, Georgia deem such amendment to be for the betterment and general welfare of the City of Snellville and its inhabitants;

IT IS HEREBY ORDAINED BY THE GOVERNING AUTHORITY OF THE CITY OF SNELLVILLE, GEORGIA, and by the authority thereof:

**Section 1.** Article IV, Division 2 of the Code of the City of Snellville is hereby amended as follows:

**Planning Commission: Section 2-284 - Removal and Eligibility, is hereby amended by deleting the following language:**

- (a) Any member of the planning commission who is absent from three consecutive planning commission meetings, either regular or called, shall automatically be removed from the planning commission and shall not be eligible for reappointment.
- (b) Members of the planning commission serve at will and may be removed by the mayor from office with a vote of three members of the city council.
- (c) Any member of the planning commission who is absent from three planning commission meetings in a one-year period shall not be eligible for reappointment.

**And replacing the deleted language with the following:**

- (a) Any member of the Planning Commission who is absent from three consecutive Planning Commission meetings, either regular or called, without an approved or reasonable excuse, as determined by the Planning Commission Chair, shall automatically be removed from the Planning Commission.
- (b) Members of the Planning Commission serve at will and may be removed from office by request of the mayor and the affirmative vote of three members of the city council.

**Section 2.** Article IV, Division 3 of the Code of the City of Snellville is hereby amended as follows:

**Board of Zoning Appeals: Section 2-318 - Absence from meetings; removal of members, is hereby amended by deleting the following language:**

- (a) Any member of the board of appeals who is absent from three consecutive board of appeals meetings, either regular or called, shall automatically be removed from the board of appeals and shall not be eligible for reappointment. Any member of the board of appeals who is absent from three board of appeals meetings in a one year period shall not be eligible for reappointment.
- (b) Members of the board of appeals serve at will and may be removed from office by request of the mayor and the affirmative vote of three members of the city council.

**And replacing the deleted language with the following:**

- (a) Any member of the Board of Zoning Appeals who is absent from three consecutive Board of Zoning Appeals meetings, either regular or called, without an approved or reasonable excuse, as determined by the Board of Zoning Appeals Chair, shall automatically be removed from the Board of Zoning Appeals.
- (b) Members of the Board of Zoning Appeals serve at will and may be removed from office by request of the mayor and the affirmative vote of three members of the city council.

**Section 3.** Article IV, Division 4 of the Code of the City of Snellville is hereby amended as follows:

**Parks and Recreation Advisory Board - Section 2-318 –Absence from meetings; removal of members, is hereby amended by deleting the following language:**

- (a) Any member of the parks and recreation advisory board who is absent from three consecutive board meetings, either regular or called, shall automatically be removed from the parks and recreation advisory board and shall not be eligible for reappointment.
- (b) Members of the parks and recreation advisory board serve at will and may be removed from office by request of the mayor, and the affirmative vote of three members of the city council.
- (c) Any member of the parks and recreation advisory board who is absent from three board meetings in a one-year period shall not be eligible for reappointment.

**And replacing the deleted language with the following:**

- (a) Any member of the Parks and Recreation Advisory Board who is absent from three consecutive Parks and Recreation Advisory Board meetings, either regular or called, without an approved or reasonable excuse, as determined by the Parks and Recreation Advisory Board Chair, shall automatically be removed from the Parks and Recreation Advisory Board.
- (b) Members of the Parks and Recreation Advisory Board serve at will and may be removed from office by request of the mayor and the affirmative vote of three members of the city council.

**Section 4.** (a) It is hereby declared to be the intention of the Mayor and Council that all sections, paragraphs, sentences, clauses and phrases of this Ordinance are or were, upon their enactment, believed by the Mayor and Council to be fully valid, enforceable and constitutional.

(b) It is hereby declared to be the intention of the Mayor and Council that, to the greatest extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this Ordinance is severable from every other section, paragraph, sentence, clause or phrase of this Ordinance. It is hereby further declared to be the intention of the Mayor and Council that, to the greatest extent allowed by law, no section, paragraph, sentence, clause or phrase of this Ordinance is mutually dependent upon any other section, paragraph, sentence, clause or phrase of this Ordinance.

(c) In the event that any phrase, clause, sentence, paragraph or section of this Ordinance shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the express intent of the Mayor and Council that such invalidity, unconstitutionality or unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional or otherwise unenforceable any of the remaining phrases, clauses, sentences, paragraphs or sections of the Ordinance and that, to the greatest extent allowed by law, all remaining phrases, clauses, sentences, paragraphs and sections of the Ordinance shall remain valid, constitutional, enforceable, and of full force and effect.

**Section 5.** All ordinances and parts of ordinances in conflict herewith are hereby expressly repealed.

**Section 6.** This Ordinance was adopted 8/8, 2016. The effective date of this Ordinance shall be the date of adoption unless otherwise stated herein.

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]

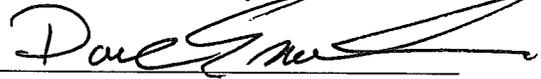
ORDAINED this 8<sup>th</sup> day of August, 2016.



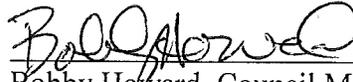
Tom Witts, Mayor



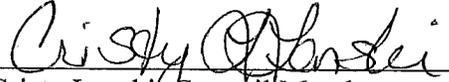
Barbara Bender, Mayor Pro Tem



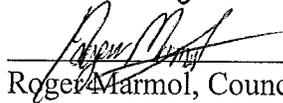
Dave Emanuel, Council Member



Bobby Howard, Council Member

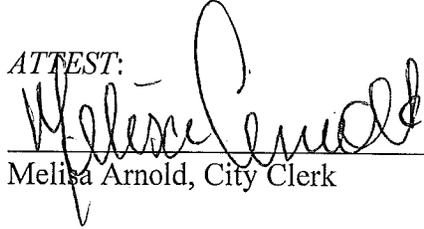


Cristy Lenski, Council Member



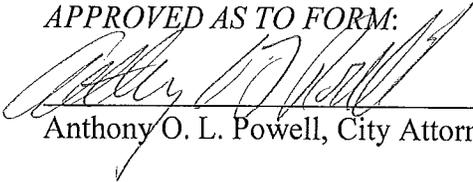
Roger Marmol, Council Member

ATTEST:



Melissa Arnold, City Clerk

APPROVED AS TO FORM:



Anthony O. L. Powell, City Attorney