

These Bylaws govern the Zoning Board of Adjustment and Appeals (ZBOA or Board) of the City of Buda.

ARTICLE ONE ORGANIZATION

1. A. The ZBOA shall consist of five (5) members and two (2) alternate members in accordance with the enabling ordinance adopted by the City of Buda, as it may be amended from time to time.

B. If the enabling ordinance sets specific residency requirements, then those requirements must be observed, provided that if a vacancy occurs as a result of the death, incapacity, resignation, or change of residency of a member (as provided above), the ZBOA may continue its functions in the interim during the process of filling the vacancy.
2. Unless otherwise required by ordinance or other applicable law, all matters shall be decided by a vote of the members present and voting. Proxy voting shall not be permitted.

ARTICLE TWO MEETINGS

1. All meetings of the ZBOA shall be conducted in strict compliance with the Texas Open Meetings Act. All members shall attend and complete a state approved Open Meetings Act training program.
2. The general public, elected officials, the Board, and city staff may request agenda items subject to approval by the Chairperson. Such items can be submitted via electronically, paper copy, agenda public comment
3. A. The ZBOA shall establish a date and time for its regular meetings. It shall not be required to give notice of regularly scheduled meetings to members, other than compliance with the Open Meetings Act.

B. Special meetings of the ZBOA may be called by:
 - (1) The Chairperson or interim Chairperson of the ZBOA;
 - (2) The City Manager or his or her designee; or
 - (3) Three ZBOA members.

Unless otherwise required by the enabling ordinance, UDC or state law, not less than three (3) days' notice shall be given by the City Manager or his or her designee of special meetings.

C. Emergency meetings may be called in accordance with the Texas Open Meetings Act.

4. A member who attends a meeting for any purpose other than objecting to the meeting because of lack of required notice, waives any objection to the meeting.
5. *Conflict of Interest.* A Board member having any potential conflict of interest, as defined by the City Code of Ordinances or State law, on any policy, decision, or determination before the Board shall disclose to each of the other members the nature of his potential conflict and shall abstain from voting on such policy, decision or determination. In the event that the Board member recognizes a conflict or clear potential for conflict of interest, he or she shall recuse him or herself from discussion and action on the topic involving such conflict. The disclosure shall be recorded in the Board's minutes. Intentional or knowing failure to disclose a conflict of interest shall be governed under the general penalty section as set forth in the City's Code of Ordinances.
 - (1) Any member of the Board who does not legally have a conflict of interest but would like to avoid the appearance of a conflict of interest may elect to follow the procedure established in Section 5.
 - (2) Members shall not represent any other person, group or interest before the Planning and Zoning Commission, the Zoning Board of Adjustments and Appeals, Historic Preservation Commission, Parks and Recreation Commission, Library Commission, Economic Development Corporation, Local Government Corporation or the City Council on any matter pending before such Board or Commission. This provision shall not preclude a member from representing an interest in his or her real homestead property. Members may represent the Zoning Board of Adjustment and Appeals in reporting on the activities or decisions made of the Board to the Planning & Zoning Commission, Historic Preservation Commission, Parks and Recreation Commission, Library Commission, Economic Development Corporation, Local Government Corporation or the City Council.

ARTICLE THREE OFFICERS

Unless otherwise required by the enabling ordinance or state statute, the following provisions shall control the officers of the ZBOA:

1. The ZBOA shall have a Chairperson and a Vice-Chairperson elected from its membership to serve for a one (1) year term. Officers shall be elected annually by the ZBOA.
2. The Chairperson and Vice-Chairperson shall be residents within the city limits.
3. The Chairperson shall preside over the ZBOA and shall have the right to vote on all items before the ZBOA.
4. The Vice-Chairperson shall fulfill the duties of the Chairperson when the Chairperson is not available for any reason.

ARTICLE FOUR ATTENDANCE POLICY

Recognizing that members serve voluntarily and the important quasi-judicial duty of the ZBOA, and keeping a proper balance between those principles and the important nature of the public business entrusted to the ZBOA, the following attendance policy shall apply to all members of the ZBOA:

- A. The voluntary absence of a Board Member from three (3) consecutive regular meetings of the Board will result in automatic resignation of the member from the Board.
- B. The voluntary absence of a Board Member from more than twenty-five (25) percent of the Board's regular meetings during a calendar year will result in automatic resignation of the member from the Board.

However, in no case shall a Board Member, regardless of whether excused or voluntary, be absent from more than fifty (50) percent of the Board's regular meetings during a calendar year. Such absenteeism will result in an automatic resignation of the member from the Board.

- C. In this section:

- (1) *Regular meeting* includes only regularly scheduled meetings, and does not include special meetings, workshops, or committee meetings of a board or commission.

- (2) *Excused absence* means an absence that results from, including but not limited to:

- a medical reason of a board or commission member or a

- relative of the member,
- child care for a newly born or newly adopted child during the first eight weeks of the child's life,
- death of a family member,
- a scheduled vacation
 - More than one (1) scheduled vacation will be deemed a voluntary absence.
- business travel,
- school, or
- from an unexpected factor beyond the control of the Board member.

The City Manager or his or her designee shall be responsible for determining whether an absence is excused.

(3) *Voluntary absence* means an absence other than an excused absence.

- D. Members shall strive to notify the City Manager or his or her designee in advance of any known or planned absence to enable the City Manager or his or her designee to determine if a quorum will be present. Failure to give reasonable notice may be considered when determining whether an absence shall be excused.
- E. In the event where there is an automatic resignation, the City Manager or his or her designee shall coordinate with the City Secretary to provide a list of eligible candidates to the City Council for consideration of replacement for such vacancy.
- F. The City Manager or his or her designee shall keep abreast the City Council on such voluntary absences.

ARTICLE FIVE RECORDS

All records of the ZBOA are public records. All such records shall be in the custody of the City Secretary but available to the members in the due course of their proceedings. The City Manager or his or her designee of the ZBOA shall

be responsible for the care and custody of the records while in the ZBOA's use.

All secretarial duties of the ZBOA shall be performed by City staff with the aid and assistance of the Chairperson.

ARTICLE SIX REGULATIONS

The ZBOA is not a regulatory body and has no authority to adopt regulations governing persons or properties, nor does it have authority to adopt rules implementing City policies. Should the ZBOA determine rules or regulations would provide a public benefit, those rules or regulations shall be submitted to the City Council for review and adoption.

ARTICLE SEVEN RULES OF DECORUM

1.

A. The purposes of these rules are as follows:

(1) To ensure that meetings of the city boards and commissions are conducted in a way that allows the business of the city to be effectively conducted.

(2) To ensure that members of the public who attend meetings of the city council and of city boards and commissions can be heard in a fair, impartial and respectful manner.

(3) To ensure that meetings of the city boards and commissions are conducted in a way that is open to all viewpoints, yet free from abusive, distracting or intimidating behavior.

(4) To ensure that the rules governing decorum at meetings of the city boards and commissions are understood by persons attending the meetings.

B. This section applies to meetings of boards and commissions whose membership is wholly appointed by the city council.

C. Members of the public may address the city board or commission at the following times during a meeting:

(1) During citizen comment period, if such a period is on the agenda for the meeting;

(2) During a public hearing on an agenda item; or

(3) At other times with the permission of the presiding officer.

D. Members of the public who wish to address a board or commission at any time during a meeting must complete a sign-in form prior to the meeting at the office of the staff liaison, for a board or commission meeting. Speakers must state their name and place of residence, and must limit their remarks to the specified time limit on the agenda unless otherwise determined by the presiding officer

- . The allotted time will commence from the beginning of the speaker's remarks and will include any time spent in discussion between the speaker and board or commission members. Issues taking longer to communicate can be addressed outside the meeting to the city staff or to individual members of a board or commission, or submitted in writing.
- E. All comments and questions by members of the public at a meeting will be directed to the presiding officer.
 - F. During a citizen comment period, members of the public will be given an opportunity to speak, and they must observe the specified time-limit, unless otherwise determined by the presiding officer, under subsection D.
 - G. The presiding officer and members of boards and commissions, will endeavor to ensure that meetings are conducted in a courteous manner, and in an atmosphere free of defamation, intimidation, personal affronts, profanity, or threats of violence.
 - H. Members of the public shall not engage in any of the following in the meeting room during a board or commission meeting:
 - (1) Shouting, unruly behavior, distracting side conversations, or speaking out when another person is talking.
 - (2) Defamation, intimidation, personal affronts, profanity, or threats of violence.
 - (3) Audible use of phones, pagers, radios, computers or other electronic equipment notwithstanding the use during presentation purposes before a board or commission.
 - (4) Booing, hissing, foot stomping, parading, singing or other similar behavior that impedes or disrupts the orderly conduct of the meeting.
 - I. The rules in this section shall be enforced in the following manner:
 - (1) The presiding officer will request that a person who is violating a rule cease the violation.
 - (2) If the violation continues, the presiding officer will warn the person that he or she will be required to leave the meeting room if the violation continues.
 - (3) If the violation continues, the presiding officer will order the person to leave the meeting room.
 - (4) If the person does not leave the meeting room, the presiding officer may order any peace officer at the meeting to remove the person from the meeting room.
 - J. It is unlawful for any person to intentionally or knowingly resist removal from a meeting room by a peace officer under subsection I of this Article.

**ARTICLE EIGHT
MOTIONS AND MEETING PROCEDURES**

The motions and meeting procedures set forth herein are to guide Board members during meetings. Any errors and/or omissions by a Board member(s) on a procedure during such meeting shall not constitute the action to be illegal. Any motions and/or meeting procedures not expressly defined in this section or any procedures as set forth within the City Charter shall follow under the latest edition of Robert’s Rules of Order.

1. **Motions.** After a Board member obtains the floor, he/she may make a motion on the particular subject of discussion or a procedural point as permitted. A “Second” to the motion, if required, must be made by another Board member within a reasonable but brief time period. A “Second” merely implies that the seconder agrees that the main motion should come before the meeting and not that he/she necessarily favors the motion. Without a “Second”, if required, the motion dies.
2. **Debate.** Debate, if permitted, must be limited to the merits of the issue under discussion as stated by the presiding officer.
3. **Motion Procedures.** There are eleven (11) types of motions in three (3) categories: Meeting Conduct Motions (4 types), Disposition Motions (6 types), and Main Motions. When any motion is pending, any motion listed above it on the chart below is in order; those below it are out of order.

Motion	May Interrupt Speaker	Second Required	Debatable	Amendable	Resolved by Chair No Vote	Affirmative Vote by 3 Board members	2/3 Vote
A. Meeting Conduct Motions							
1.point of privilege	yes	no	no	no	yes	no	no
2.point of procedure or order	yes	no	no	no	yes	no	no
3.to appeal a ruling	no	yes	yes	no	no	yes	no
4.to recess	no	yes	yes	yes	no	yes	no
B. Disposition Motions							
5.to withdraw	yes	no	no	no	yes	no	no
6.to postpone	no	yes	yes	yes	no	yes	no
7.to refer	no	yes	yes	yes	no	yes	no

8.to amend	no	yes	yes	yes	no	yes	no
9.to limit; extend or close debate; or to “call the question”	no	yes	yes	yes	no	no	yes
10.to count the vote	no	yes	no	no	no*	no	no
C. Main Motions							
11.to take action or reconsider action taken	no	yes	yes	yes	no	yes**	no

* Mandatory if seconded; no vote required

** Unless a greater vote is required by the Charter or State law

4. Point of Privilege. A point of privilege, sometimes called a point of personal privilege, is a communication from a Board member to the presiding officer, drawing urgent attention to a need for personal accommodation. For example, the point may relate to an inability to see or hear, a matter of comfort, a matter of requested convenience, or an overlooked right of privilege that should have been accorded to the Board member(s). In essence, it is a call to the presiding officer for the purpose of assuring a Board member’s convenient and appropriate participation in the meeting. Because of its urgent nature, a point of privilege can interrupt a speaker. Because it is addressed to the attention and action by the presiding officer, it cannot be debated or amended, and no vote is required.

5. Point of Procedure or Order. A point of procedure, sometimes called a point of order, is a question addressed to the presiding officer, no seconding is required, and either inquiring into the manner of conducting business or raising a question about the propriety of a particular procedure. It is simply an inquiry and is resolved by correction or clarification by the presiding officer. A point of procedure can interrupt a speaker. Because it is addressed to the attention of and action by the presiding officer, a second is not required, and it cannot be debated or amended, and no vote is taken.

6. To Appeal a Ruling. Decisions or rulings of the presiding officer are final on questions of procedure, except that any ruling by the presiding officer’s ruling can be appealed to a vote of the Board. Whenever a Board member’s questions the appropriateness or essential fairness of the

presiding officer, that member can appeal the ruling to a vote of the meeting. If, however, a motion is out of order as a matter of law (not a proper subject of the meeting, improper notice given etc.), the presiding officer's ruling cannot be appealed. A motion to appeal cannot interrupt a speaker. To prevent frivolous appeals, a second is required. The motion is subject to debate (which should be brief) and, by its nature, is not amendable. To overrule a procedural decision of the presiding officer, an affirmative vote of three (3) Board members is required.

7. To Recess. A motion to recess requests a brief interruption of the meeting's business, usually so that an ancillary matter can be addressed, or simply to provide a needed break. Unless stated in the motion, the period of recess is decided by the presiding officer. If necessary, a recess can extend the meeting from one day to another, subject to State law. The motion cannot interrupt a speaker, and a second is required. It is debatable, it can be amended, and an affirmative vote of three (3) Board members is required.
8. To Withdraw. Only the maker of the motion can make a motion to withdraw it. It is essentially a communication to the presiding officer that the maker is withdrawing his/her proposal. This is the maker's privilege; thus, it does not require a second. Because the withdrawal motion obviates discussion, it can interrupt a speaker. In addition, because another Board member later can make a similar motion, a withdrawal motion is not subject to debate, amendment, or vote. The presiding officer should simply state that the motion is withdrawn, and the meeting should proceed with a new treatment of the issue at hand – or a new issue.
9. To Postpone. This motion may arise from a need for further information, a matter of convenience, or for any other reason that will enable the Board to deal with the issue more effectively at a later time. Unless otherwise specifically provided in the motion itself, a postponed motion can be renewed at a later appropriate time during the meeting or, if properly posted, at a later meeting. This motion cannot interrupt a speaker. It requires a second, it is debatable, and it is amendable (particularly as to postponement, timing), and an affirmative vote of three (3) Board members is required.
10. To Refer. A motion to refer is typically used to submit an issue to a committee, usually for study leading to a subsequent recommendation. Because it ordinarily disposes the motion for purposes of the current meeting, a motion to refer is subject to the same rules that apply to a main motion. (See Section 14.). This motion cannot interrupt a speaker, and a second is required. It is debatable and amendable, and an affirmative vote of three (3) Board members is required.
11. To Amend. A motion to amend proposes a change in the wording of a motion then under consideration. When a motion to amend is pending and an amendment to the amendment is proposed, the presiding officer should

focus discussion on the latest amendment, resolve that question, then proceed to the first amendment before continuing discussion on the main motion. Votes on amendments thus are in reverse order of the sequence in which they are proposed. A motion to amend cannot interrupt a speaker. It requires a second, and it is debatable and amendable. An affirmative vote of three (3) Board members is required for approval of the amendment. Note that State law may restrict amendments to proposals that are required to be set forth in the notice of the meeting.

12. To Limit, Extend, or Close Debate or “Call the Question”. Because the extent to which an issue is discussed rests primarily with discretion of the presiding officer, it is the presiding officer who carries the burden of ensuring that adequate time and discussion are given to differing points of view. A motion to limit, extend, or close debate is therefore an overruling of the presiding officer’s determination. A motion to close debate is the same as a motion to “call the question”. Because this motion affects the most fundamental right of any Board member, the right to speak one’s views, it is the only procedural motion that requires an affirmative vote of two-thirds of the participants voting.
13. To Count the Vote. A motion to count the vote should be limited to those circumstances where the convenient hearing of “yeas” and “nays” cannot clearly resolve the issue. It represents the right of a Board member to have a vote demonstrated by count. That count can be directed by the presiding officer either as a showing of hands or a standing of voting members while the vote is recorded. Upon completion of the count, the presiding officer announces the result-and final disposition of the issue voted upon. This motion cannot interrupt a speaker. It requires a second; it is neither debatable nor amendable; and, because of the importance of the matter, it should be considered mandatory; thus, no vote is required.
14. To Take Action or Reconsider an Action; Main Motions. These main motions state proposed policy or action on a substantive issue being considered by the Board. As such, the motion can be an initial call to take particular action; to reconsider action taken; or to rescind a prior decision. Although lowest in precedence among all motions, main motions are clearly the most important: through their content, the business decisions of the Commission are determined. A main motion can be made only when a prior main motion has been disposed of. It cannot interrupt a speaker; a second is required; it is debatable and amendable; and an affirmative vote of three (3) Board members is required unless a greater vote is prescribed by the Charter or State law.

ARTICLE NINE AMENDMENTS TO BYLAWS

These Bylaws may be amended only by the City Council. Requests for

amendment may be submitted to the City Council by any member of the ZBOA.

APPROVED AND ADOPTED by the City Council on _____,
201____.

CITY OF BUDA, TEXAS

Sarah Manghan, Mayor

ATTEST:

Toni Milam, City Secretary