

RESOLUTION 2022-10

A RESOLUTION OF THE CITY OF FAIR OAKS RANCH ADOPTING THE RULES OF PROCEDURE OF THE FAIR OAKS RANCH ZONING BOARD OF ADJUSTMENT; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the Fair Oaks Ranch City Council, under Ordinance 2019-03, adopted a Unified Development Code (UDC); and,

WHEREAS, Section 2.3 of the UDC established the Zoning Board of Adjustments; and

WHEREAS, Local Government Code 211.08 (e), states that The Zoning Board of Adjustment, by majority vote is tasked with adopting Rules of Procedure. These rules must then be approved by the governing body; and

WHEREAS, on March 14, 2022 the Zoning Board of Adjustments recommended approval of the Rules of Procedure; and,

WHEREAS, the City Council deems it is necessary to adopt these Rules of Procedures as necessary.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAIR OAKS RANCH, TEXAS THAT:

- Section 1. The Fair Oaks Ranch Zoning Board of Adjustment Rules of Procedure shall be adopted as set forth in the attached, as "Exhibit A".
- Section 2. That the recitals contained in the preamble hereto are hereby found to be true and such recitals are hereby made a part of this Resolution for all purposes and are adopted as part of the judgment and findings of the Council.
- Section 3. It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this Resolution be severable, and, if any phrase, clause, sentence, paragraph, or section of this Resolution shall be declared invalid by judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, or sections of this Resolution and the remainder of this Resolution shall be enforced as written
- Section 4. That it is officially found, determined, and declared that the meeting at which this Resolution is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Resolution, was given, all as required by Chapter 551, as amended, Texas Government Code.
- Section 5. This Resolution shall take effect immediately.
- Section 6. The repeal or amendment of any Resolution or part of Resolutions effectuated by the enactment of this Resolution shall not be construed as abandoning any action now pending under or by virtue of such Resolution or as discontinuing, abating, modifying, or altering any penalty, accruing or to accrue or as affecting any rights of the City of Fair Oaks Ranch under any section or provisions of any Resolutions in effect at the time of passage of this Resolution.

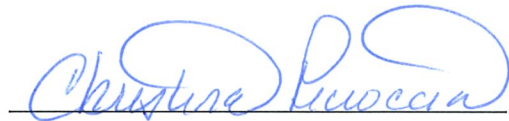
Section 7. The provisions of this Resolution shall be cumulative of all Resolutions not repealed by this Resolution and Resolutions governing or regulating the same subject matter as that covered herein.

PASSED, APPROVED and ADOPTED on this 17th day of March, 2022.



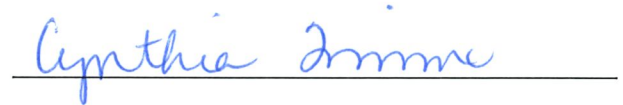
Gregory C. Maxton, Mayor

ATTEST:



Christina Picioccio, TRMC, City Secretary

APPROVED AS TO FORM:



Denton Navarro Rocha Bernal & Zech, P.C.,
City Attorney

**CITY OF FAIR OAKS RANCH
ZONING BOARD OF ADJUSTMENT (ZBOA)
MEETING RULES OF PROCEDURE**

Resolution 2022-10 (March 17, 2022)

General Provisions

Rule 1. Scope of Rules.

These rules shall govern the conduct of the ZBOA and shall be interpreted to ensure fair and open deliberations and decision making. In general, these rules shall be interpreted to allow the majority to prevail but preserve the right of the minority to be heard.

Rule 2. Rulings; Matters Not Covered.

The Presiding Officer, as defined by Rule 8, shall rule, initially, on all questions of procedure. The latest edition of *Robert's Rules of Order*, shall to the extent feasible, govern the proceedings of meetings. The City Secretary or authorized representative shall act as Parliamentarian for ZBOA Meetings.

Rule 3. Interpretation.

These rules are intended to supplement and shall be interpreted to conform with the statutes of the State of Texas and the ordinances of the City of Fair Oaks Ranch.

Creation and Membership

Rule 4.

- a. The Zoning Board of Adjustment (ZBOA) is a sovereign board established by the City Council pursuant to Subchapter A of Chapter 211 of the Texas Local Government Code. The ZBOA derives its authority from state law, as well as the City's Unified Development Code (UDC).
- b. ZBOA members are appointed by the City Council. The ZBOA shall consist of five (5) members who shall be appointed by majority vote of the City Council. ZBOA members shall serve for a term of two (2) years and are subject to removal for cause, as found by the City of Fair Oaks Ranch City Council, on a written charge after a public hearing. A vacancy on the ZBOA shall be filled for the unexpired term.
- c. City Council by majority vote, shall appoint two (2) individuals as alternate ZBOA members to serve in the absence of one (1) or more regular members when requested to do so by the City Manager or his/her designee. An alternate member serves for the same period as a regular member and is subject to removal in the same manner as a regular member. A vacancy among the alternate members is filled in the same manner as a vacancy among the regular members.
- d. Staff should develop orientation sessions at the beginning of new terms of office for new and alternate members. If a seat becomes vacant and a new ZBOA member(s) are appointed to complete unexpired terms, the new member(s) should also attend an orientation session.

- e. All ZBOA members, inclusive of alternate members, are encouraged to attend every called meeting of the ZBOA. If necessary, the Presiding Officer will invite an alternate member(s) to serve prior to taking Roll Call (Rule 11).

Time and Place of Meetings

Rule 5. Meetings.

- a. The ZBOA will meet on as need basis to hear appeals filed in a timely manner. An appeal to the ZBOA of a matter falling under their purview must be made not later than the 20th day after the date the decision is made by the city's administrative official.
- b. All meetings shall be held in full compliance with the provision of state law, city ordinances, and these rules of procedure. The City may broadcast the regular meetings online and such method will be posted with the regular meeting notice for the public.
- c. Each case before the ZBOA must be heard by at least 75 percent of the members (4 of 5).
- d. The concurring vote of four (4) of the five (5) members of the ZBOA is necessary to:
 - a. reverse an order, requirement, decision, or determination of an administrative official; or
 - b. authorize a variation from the terms of a zoning regulation.

Rule 6. Meeting Minutes

- a. Minutes, paper, and voice recordings, of all ZBOA meetings shall be kept by the City Secretary or his/her designee and are subject to amendment and ratification by the ZBOA at a called meeting.
- b. The minutes of the ZBOA's proceeding shall be "record minutes" showing the overall vote, or if absent or failing to vote, shall reflect that fact.
- c. The Chairperson or Vice-chairperson, in the absence of the Chairperson, will sign minutes approved by the ZBOA.

Officers

Rule 7.

- a. The ZBOA shall select from among its members in their first meeting of the fiscal year following new appointments, a Chairperson and Vice-chairperson to serve for a period of one (1) year.
- b. If a vacancy of either position exists, a majority of the remaining members who are present and voting shall appoint an existing ZBOA member to complete the unexpired term.

- c. In the absence of both the Chairperson and Vice-chairperson, the ZBOA shall elect an Acting Chairperson.
- d. Alternate members serving in the absence of a regular member shall have the same authority as a regular member, inclusive of voting on officer vacancies. Alternate members cannot serve as an officer.

Officer Duties

Rule 8. Presiding Officer and Control of the Discussion

- a. The Chairperson, or in the Chairpersons absence or inability to perform, the Vice-chairperson, shall be the Presiding Officer at all ZBOA meetings. If both the Chairperson and Vice-chairperson are absent or unable to perform, an Acting Chairperson shall be selected according to Rule 7.
- b. The Presiding Officer shall moderate discussion of the ZBOA on each agenda item to assure full participation in accordance with these rules and Robert's Rules of Order. The Presiding Officer will preserve order and decorum, preventing the impugning of any member's motives or other personal comment not relevant to the orderly conduct of business. All persons present in the meeting room should refrain from abusive, rude, or inappropriate conduct.

ZBOA Agenda and Agenda Packet

Rule 9. Agenda

The agenda serves as the "official" meeting notice. The agenda is approved by the City Manager or his/her designee.

Rule 10. Agenda Packet.

- a. The agenda packet includes the meeting notice ("Agenda") and any supporting documentation for agenda items.
- b. The City Manager or his/her designee shall supervise the preparation and approve the agenda packets for all meetings of the ZBOA.
- c. Upon approval, agenda packets will be sent electronically, by the City Secretary's Office, to ZBOA Members, the City Attorney, the City Manager, and his/her designees. Agenda packets can be picked up by ZBOA members at City Hall during normal business hours.

Conduct of Meetings

Rule 11. Roll Call.

Before proceeding with the business of the ZBOA, the City Secretary or his/her designee determines the presence of a quorum as required by law and these rules by calling the roll of Members present and entering those named in the minutes.

Rule 12. Call to Order.

The Presiding Officer shall call the meeting to order.

Rule 13. Limit on Remarks.

Each ZBOA Member shall limit their relevant remarks to a reasonable length. Time limits for ZBOA Member comments may be set for specific agenda items, or any single meeting, by a majority vote of the ZBOA Members present. If limits will be set for a specific agenda item, it must be voted on prior to the agenda item motion.

Rule 14. Presiding Officer's Right to Speak Last.

The Presiding Officer has the right to speak last on any item.

Rule 15. Total Time Limits.

Ideally, a maximum thirty (30) minute presentation including rebuttal by the applicant should be dedicated to each agenda item. Time for public comment on any subject under ZBOA consideration should not be limited to a fixed period, but the Presiding Officer has discretion to limit additional public participation if no new information is forthcoming.

Rule 16. Public Participation during ZBOA Meetings.

- a. Comments and suggestions by the public are highly valued and encouraged during those parts of a meeting designated for public participation. Speakers are encouraged to register in advance to speak on an agenda item.
- b. When called forth, the speaker wishing to comment shall step to the microphone, and state their name, city of residence, or county of residence if they do not reside in a city.
- c. The Presiding Officer shall encourage speakers to keep comments civil and refrain from including abusive, rude, or inappropriate language.

Rule 17. Agenda Items.

Each item will be considered in the numerical order as listed on the meeting notice unless otherwise approved per Rule 23. Each agenda item shall be introduced by the Presiding Officer. The standard procedure is as follows for addressing agenda items:

- a. Reading of the item by the Presiding Officer.
- b. Presiding Officer calls on the City Manager or his/her designee to present the item. A ZBOA Member may request and receive information, explanations, or the opinions of the presenter. It is preferred that all such questions of the presenter are conducted prior to any motions, if possible.
- c. Presiding Officer calls on the Applicant or his/her designee to present their item. A ZBOA Member may request and receive information, explanations, or the opinions of the presenter. It is preferred that all such questions of the presenter are conducted prior to any motions, if possible.
- d. Presiding Officer opens the Public Hearing.

- a. Call for comments from organized groups and individuals favoring the issue of the public hearing; individual comments should not exceed five (5) minutes.
- b. Call for comments from organized groups and individuals in opposition to the issue of the public hearing; individual comments should not exceed five (5) minutes.
- c. Call for the rebuttal by the applicant.
- d. Questioning by the ZBOA of the applicant and audience members who addressed the ZBOA. The time used to answer ZBOA questions will not deduct from the thirty (30) minute allotment.
- e. Presiding Officer closes the Public Hearing

Rule 18. Motion Required.

All actions requiring a vote shall be moved by a ZBOA Member. A ZBOA Member may make a motion to amend a motion. The amendment must receive a second before it may be discussed and must be voted on prior to voting on the main motion. A motion may be withdrawn or modified by its mover without asking permission. It is considered a motion, if a ZBOA Member formally states, "I move to" or "I so move". Any other comments made by a ZBOA Member regarding a potential motion or consideration of an amendment will not be considered a motion until formally stated.

Rule 19. Recording Names of Moving Members.

The City Secretary shall record the name of the ZBOA Member making each motion and seconding each motion.

Rule 20. Closing Motion Discussion.

Discussion shall be closed on any item by the Presiding Officer with the concurrence of a majority of the ZBOA present, or by calling the question by any ZBOA Member so long as all ZBOA Members have been afforded the opportunity to speak at least once.

Rule 21. Call for Vote.

At the conclusion of the discussion or if a ZBOA Member calls the question and is seconded, the Presiding Officer shall call for a roll call vote so that the record reflects each members vote. The Presiding Officer shall announce the results of the vote.

Rule 22. Separate Consideration.

Except as otherwise required by these rules, each agenda item shall be voted upon separately with the vote recorded by the City Secretary. Motions and votes within an agenda item may be split, as desired by City ZBOA.

Rule 23. Consideration Out of Agenda Order.

At the request of a ZBOA Member and with the consent of the Presiding Officer ZBOA, any agenda item may be considered out of Agenda order.