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**State:** New York  
**Jurisdiction Type:** Municipal  
**Municipality:** Town of Brookhaven  
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**Community Type - applicable to:** Suburban; Rural  
**Title:** Town of Brookhaven Required Attendance at Public Meetings for Members of Planning Board & Zoning Board of Appeals Ordinance  
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### ***Abstract***

The Town of Brookhaven created this local law to establish minimum attendance requirements for all Zoning Board of Appeals and Planning Board members.

### ***Resource***

Town of Brookhaven NY Planning Board and ZBA Required Attendance

Code of the Town of Brookhaven NY

Chapter 85: Zoning

Article IIIB

ARTICLE IIIB Required Attendance at Public Meetings for Members of Planning Board and Zoning Board of Appeals

#### **§ 85-25.9. Title.**

This article shall be entitled "Required Attendance at Public Meetings for Members of Planning Board and Zoning Board of Appeals."

#### **§ 85-25.10. Purpose and intent.**

The Town Board finds that attendance of Zoning Board of Appeals and Planning Board members at public meetings is essential to the orderly performance of their functions, and it is the purpose of this article to establish minimum attendance requirements for Zoning

Board of Appeals and Planning Board members to attend public meetings as set forth herein.

**§ 85-25.11. Definitions.**

"Public meeting" shall refer to all open meetings as defined by the New York Open Meetings Law.

**§ 85-25.12. Zoning Board of Appeals and Planning Board members' minimum attendance requirements.**

A. All members of the Zoning Board of Appeals and Planning Board shall be required to attend public meetings, as defined herein, and shall not be absent greater than four times within each year from the date of their initial appointment to such Board.

B. Noncompliance with minimum requirements relating to attendance shall be deemed a proper cause for removal from such Board.

**§ 85-25.13. Attendance records; notice of absences.**

The Secretary to the Zoning Board of Appeals and the Secretary to the Planning Board shall maintain such required attendance records. The Secretary to each respective Board shall advise the Chairman of that Board when a member has been absent from the required meetings greater than four times within each year. The Chairpersons of the Zoning Board of Appeals and the Planning Board shall provide written notification to any member upon their third and fourth absence; notice to be served in accordance with § 85-25.14A.

**§ 85-25.14. Procedure for removal of member.**

If any member of the Zoning Board of Appeals or Planning Board is absent from public meetings greater than four times in any given year, the Chairperson of the Zoning Board of Appeals and the Chairperson of the Planning Board shall notify the Town Clerk, in writing, of any member who fails to comply with the requirements for attendance in any given year. In the event that a member of the Zoning Board of Appeals or Planning Board has failed to attend the required number of public meetings as set forth in § 85-25.12, then the Town Board may, after a public hearing, remove such member for cause as herein provided.

A. Notice. Such member shall be mailed a written notice, by certified mail, return receipt requested, specifying the nature of the failure of such member to meet the minimum requirements of § 85-25.12 above.

B. Public hearing. Such notice shall specify a date, not less than 10 nor more than 30 days from the date of mailing such notice, when the Town Board shall convene and hold a public hearing on whether or not such member should be removed from service on such Board. Such notice shall also specify the time and place of such hearing.

C. Public notice. Public notice of such hearing shall be published at least 10 days prior to the date of the public hearing.

D. Conduct of hearing. The public hearing on the charges shall be conducted before the Town Board. The member shall be given an opportunity to present evidence and to call witnesses to refute the charges. A record of such hearing shall be made. The decision of the Town Board shall be reduced to writing, together with specific findings of the Town Board with respect to each charge against such member. A copy of such decision and such findings shall be mailed to the member and a copy filed with the Town Clerk.

E. Action by the Town Board. Following the hearing and upon a finding that such member has not met the required attendance established by this article, the Town Board, within 30 days of such finding, may:

(1) Remove such member from the Zoning Board of Appeals or Planning Board; or

(2) Issue a written reprimand to such member without removing such member from such Board; or

(3) If the Town Board shall find that the reasons for failing to meet the minimum attendance requirements are excusable because of illness, injury or other good and sufficient cause, the Town Board may elect to take no action.

#### **§ 85-25.15. Removal for cause.**

Nothing contained herein shall be deemed to limit or restrict the Town Board's authority to remove a member from the Zoning Board of Appeals or Planning Board for cause (i.e., for other than the reasons enumerated herein). The procedural provisions of § 85-25.14, Procedure for removal of member, shall govern any hearing to remove a member for cause after a hearing.

#### **§ 85-25.16. Excused absence.**

Nothing herein contained shall be deemed to limit the Town Board's authority to waive a public hearing and excuse an absence upon good cause shown.

#### **§ 85-25.17. When effective; applicability.**

A. This article shall become effective upon filing with the Secretary of State of the State of New York.

B. This article shall apply to all members of the Town of Brookhaven Zoning Board of Appeals and Planning Board regardless of the date of their appointment to such Boards.

C. Prospective members of the Zoning Board of Appeals and Planning Board shall be notified of the requirements of this article prior to their appointment to such Board.

D. General severability. If any clause, sentence, paragraph, section or item of this article shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not impair nor invalidate the remainder hereof, but such adjudication shall be confined in its operation to the clause, sentence paragraph, section or item directly involved in the controversy in which such judgment shall have been rendered.