

## **BOARD OF ADJUSTMENT RULES OF PROCEDURE**

These Rules of Procedure are promulgated pursuant to Laramie Municipal Code (LMC) Section 15.04.040 which states "The planning commission shall serve as the Board of Adjustment. Appointments and terms of members to the Board of Adjustment shall coincide with the appointments and terms of the planning commission" and as allowed by Wyoming Statute 15-1-605.

### **I. Name**

In accordance with LMC Section 15.04.040.A, the name of this board is the City of Laramie Board of Adjustment (hereafter referred to as the Board of Adjustment).

### **II. Establishment and membership**

The mayor, with the consent of the governing body, has appointed the city planning commission as the Board of Adjustment per state statute 15-1-605.(c)

Appointments and terms of members to the Board of Adjustment shall coincide with the appointments and terms of the planning commission. (Ord. 1522 § 5, Ord. 858 § 1, 1986: Ord. 194 § 9.1 (part), 1964).

### **III. Staff Attendance at Meetings**

The City Planning Manager, or his designee, should attend all meetings of the Board of Adjustment in order to provide necessary administrative liaison and assistance as required by the Planning Commission. The City Engineer, or his designee, is requested to be available for all meetings of the Board of Adjustment when a checklist or report prepared by the City Engineer is to be considered by the Board of Adjustment, and upon request from the Board of Adjustment.

### **IV. Term of Appointment**

In accordance with State Statute 15-1-605-(c) and per section 15.04.040.A of the Laramie Municipal Code, the Planning Commission shall serve as the Board of Adjustment. Appointment and terms of members to the Board of Adjustment shall coincide with the appointments and terms of the planning commission.

### **V. Appointment of Members**

The Planning Commission shall sit as the Board of Adjustment per Wyoming State Statute 15-1-605 and shall fill vacancies per Planning Commission's Rules of Procedure.

**VI. Removal of Planning Commission Members**

The City Council may remove members from the Board of Adjustment per the standards set by the Planning Commission Rules of Procedure and LMC 2.36.050.

**VII. Officers**

In accordance with LMC section 2.36.040 the officers of the Planning Commission are a chair (president) and a vice-chair (vice president) and shall also serve as the officers for the Board of Adjustment.

**VIII. Election of Officers**

The Board of Adjustment's officers shall be elected through the process set through the Planning Commission's Rules of Procedure VIII.

**IX. Duties of Officers**

**A. Chair**

The Chair shall preside at all regular and special meetings unless incapacitated or unable to attend. The Chair may move, second and debate from the chair subject only to limitations placed on all members and shall not be deprived of rights and privileges of a member.

**B. Vice-Chair**

The Vice-Chair shall perform the duties or responsibilities of the Chair in the absence or disability of the Chair.

**C. Temporary Chair**

In the absence of the Chair and Vice-Chair, if a quorum is present it shall elect a Temporary Chair to serve until the Chair or Vice-Chair appears. The Temporary Chair shall perform the duties of the Chair in the absence or disability of the Chair and Vice-Chair.

**X. Scheduling of Meetings**

The Board of Adjustment shall hold a regular meeting twice each month at 4:30 p.m. on a schedule set by the Board of Adjustment from time to time. The regular meeting time and place may be changed by the Board of Adjustment. Generally, the Board of Adjustment will meet on the second and fourth Mondays of each month at 4:30 PM. A regular meeting may be canceled if no business is scheduled for discussion. All meetings of the Board of Adjustment shall be open to the public.

Any meeting date which falls on a holiday, or any meeting canceled because of lack of a quorum shall be rescheduled by the Planning Commission on behalf of the Board of Adjustment. A regular meeting may be canceled if no business is scheduled for discussion.

## **XII. Quorum and Vote**

To transact official business, a quorum must be present. A concurring vote of a majority of the Board is required to approve official business. The chair shall vote as a member of the Board. Approval of a matter before the Board requires the affirmative vote of four members of the Board.

Proxies cannot be used for any purpose.

A member may not vote on a project, which has been heard at more than one meeting, unless the member was present at all meetings in which the project was considered or the member has listened to the tape recording of the meeting(s).

A member who is present shall vote on a matter unless the member articulates a conflict of interest or other disqualification prior to consideration of the item.

## **XIII. Notice and Minutes of Meetings**

In addition to any specific notice for individual items required by applicable statute, ordinance, resolution, or regulation, the Planning Commission and Board of Adjustment shall publish the agenda of its regular meetings by posting a copy of the agenda in a public place within the Planning Division offices.

All Board of Adjustment meetings are open to the public. The Board of Adjustment shall keep minutes of its proceedings showing the vote of each member upon each question or if the member was absent or failed to vote. The Board of Adjustment shall also keep records of its examinations and other official actions. All minutes are public records and shall be filed in the board's office.

## **XIV. Site Visits**

Site visits may be scheduled after a project has been submitted for review but before the Board of Adjustment's meeting. The Board of Adjustment, not the applicant, is responsible for scheduling site visits for the Board of Adjustment. Individual members may visit sites on their own with or without the Planning Manager present provided no applicant or other representatives of the applicant are present. If any relevant information is obtained and considered by members as a result of any site visit, the information shall be disclosed before the vote on any decision so that all participants at the meeting may be informed of the facts that influence the disposition of the case, and have an opportunity to respond.

## **XVII. Conduct of Meeting**

The business of all Board of Adjustment meetings shall be transacted within the regular Planning Commission Meeting following order unless by vote of majority of the members present the rules are suspended and the order changed:

1. Call to Order/Roll Call
2. Approval of Agenda/Minutes
  - 2.A Changes And Approval of Agenda
  - 2.B Planning Commission Meeting Minutes
3. Citizen Comments - Non Agenda Related Topics – No Action Can Be Taken
4. Planning Commission And Staff Reports And Comments
5. Disclosures – Ex-Parte Communications; Potential Conflicts Of Interest
6. Current Planning Projects
  - 6.A Old Business
  - 6.B New Business
7. Long Range Planning Projects
8. Variances (Board of Adjustment)
9. Appeals (Nuisance Board of Appeals)
10. Solar Access Permit (Solar Board of Review)
11. Adjournment

## **XVIII. Process of Variance Hearing**

Where an individual has filed an application to be acted upon by the Board of Adjustment, the application shall be considered at a public meeting. The procedures that follow shall be used.

### **A. Adjourn as Planning Commission and reconvene as Board of Adjustment**

The Chair shall call for the Planning Commission to adjourn and then reconvene as the Board of Adjustment.

### **B. Swear in witnesses**

The Chair shall open the meeting by swearing in witnesses who would like to speak during the hearing process on items being considered, otherwise they will not be able to testify. The Chair shall swear in witnesses by stating the following: "Do you swear to tell the truth, whole truth and nothing but the truth."

### **C. Presentation of Staff Report**

The Planning Division staff shall have an opportunity to explain the nature of the project and present the staff report. Board of Adjustment members may direct questions concerning the report or project to staff.

**D. Presentation of Applicant's Case**

The applicant shall have an opportunity to present evidence and witnesses in support of the application and to rebut any issues or conditions identified in the staff report. Board of Adjustment members may direct questions concerning the report or project to the applicant.

**E. Public Comments**

The Chair shall invite comments from the public in attendance at the hearing. Board of Adjustment members may direct questions concerning the comments to the applicant or public.

**F. Deliberations by the Board of Adjustment**

The Board of Adjustment may close public comment and take action or take the matter under advisement to be decided at a subsequent meeting. The Board of Adjustment may continue the meeting to receive additional comment. The Board of Adjustment may re-open the meeting at a later time to receive more comment. After closing the meeting the Chair shall ask for a motion concerning the application or matter before the Board of Adjustment. The Board of Adjustment may only deliberate a matter after public comment has been closed and a motion concerning the disposition of the application or matter has been made and seconded. During deliberations, the Board of Adjustment may direct questions to the applicant, staff, or public to clarify issues of concern to the Board of Adjustment after being recognized by the Chair.

**G. Decision by the Board of Adjustment**

After deliberations, the Chair shall ask for a vote of the members present. Every member present shall vote either "aye" or "no" or abstain from voting. All action taken shall conform to applicable statutory provisions on open meetings and shall be by motion.

Any "aye" or "no" must be determined by meeting or not meeting the following provisions set forth under State Statute 15-1-608.(b).(ii).

Decisions by the Board of Adjustment require the affirmative vote of a majority of the full Board which is four members of the seven person Board.

**XIX. Conduct of Members**

Board of Adjustment members shall abide by the rules of conduct set forth below.

**A. Conflict of Interest:**

Members have the right and the obligation to vote on all questions before them

and to participate in the business of the Board of Adjustment except when a conflict of interest exists, or if there is a perception of a conflict of interest.

**(1) Notification of conflict of interest:**

Whenever the Board of Adjustment is considering, or may consider a matter that raises a question of conflict of interest for a particular member, the member shall inform the Planning Division before the meeting. If, in the staff's opinion, there may be a conflict of interest, staff may ask City Attorney for an opinion. Members are responsible for determining when a conflict of interest exists. Members are also responsible for alerting the Chair before the meeting.

**(2) Conduct at meetings where a member has a conflict of interest:**

If any member has a conflict of interest with any particular item, the member shall notify the Board of Adjustment and the public in attendance of the conflict of interest. The member shall not participate in consideration of that item.

**B. Ex parte Contacts**

Ex-parte contacts are contacts between individuals seeking to influence a decision on a Board of Adjustment matters outside the meeting forum. Examples include site visits, meetings with the applicant or applicant's representative, telephone calls, in person contact, email, letters or other forms of communication with anyone which may attempt to influence a member's opinion on a matter which will be subject to the member's vote.

It is the goal of the Board of Adjustment to make its decisions based on information equally available to all members, applicants, the public, and City staff, because that allows all interested parties to respond to all information which could influence the Board of Adjustment's decisions. This section should be interpreted in light of this goal.

From time to time, members may seek or receive information on matters before them other than through formal, public submissions. This could occur, for instance, when a member visits a site, or is contacted by an applicant, expert, or member of the public. If this happens, members shall 1) disclose in public any substantive information received or gleaned by them, and 2) in the case of information provided to them, urge the contacting party to provide that information to the entire Commission in person or in writing.

**XX. Open Meetings**

Meetings of the Board of Adjustment, including site visits, shall be open to the public except as provided by law.

**XXI. Open Records**

Information presented to the Board of Adjustment in carrying out its responsibilities, records of meetings, and any other material resulting from the conduct of its activities shall be kept on file in the City of Laramie's Planning Division Office, and shall be available for inspection by the public upon reasonable request except as provided by law.

**XXII. Amendments to the Rules of Procedure**

Any member of the Board of Adjustment or staff member of the Planning Division may propose amendments to the rules of procedure. An amendment must be approved by a majority of the entire membership after due notice process and filed with the City Clerk to become effective.

**XXIII. Other Rules of Procedure**

The most recent edition of "Robert's Rules of Order" shall be the parliamentary rules of the Commission as required and shall be supplemental to and included as part of these rules.

**XXIV. Hearings**

Whenever the Commission is authorized or required by statute or ordinance to hold a hearing, the hearing shall be conducted in the manner specified in Section XVIII above, substituting "hearing" for "meeting" and "testimony" for "comments." Any procedural matters not covered by Section XVIII shall be in accord with Chapter 1.20 of the Laramie Municipal Code.

Adopted \_\_\_\_\_, 2021.

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Chair

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Secretary