

RULES OF PROCEDURE BOARD OF ADJUSTMENT

In compliance Section 18.51.090, of the City of Woodland Park Municipal Code, Zoning Ordinance, the Board of Adjustment may adopt rules of procedure consistent with applicable ordinance and chapter provisions; the following rules of procedure are hereby adopted by the City of Woodland Park Board of Adjustment and City Council.

SECTION 1. 0 ESTABLISHMENT AND MEMBERSHIP

The Board of Adjustment was established by the adoption of the City of Woodland Park Municipal Code, Zoning Ordinance on December 15, 1969.

- 1.1 **Membership.** The Board shall consist of five regular members and at least two alternate members appointed by the City Council. No member of the Board shall be a member of any other City board, commission or City Council nor an employee of the City. Members of the Board shall be residents of the City and shall have resided within the City for at least one year prior to his or her appointment.
- 1.2 **Terms.** Members of the Board shall be appointed for three year, or incomplete terms.
- 1.3 **Alternate Members.** Alternate members shall meet the membership and term qualifications as stated above. In the absence of a regular member, the Chairman of the Board shall designate at the commencement of the meeting or hearing an alternate member to serve as, and fulfill the responsibility of, the regular member during his absence. Once so designated the alternate member shall not be replaced by a returning member other than at the commencement of an individual item.
- 1.4 **Compensation.** All members and alternate members of the Board shall serve without compensation.
- 1.5 **Removal and Vacancy.** A regular member or alternate member of the Board, once qualified, shall be removed during his term of office for just cause and upon two-thirds majority vote of the City Council. Unexcused absence by regular members from three consecutive meetings shall be deemed just cause. In the event of the death, resignation, or removal of any member or alternate member before the expiration of his term, a successor shall be appointed in the manner described in Section 18.51.010 of the Municipal Code, Zoning Ordinance for the unexpired portion of this term.

SECTION 2. 0 OFFICERS

The Board of Adjustment shall select from its membership two officers: A Chairman and Vice Chairman.

- 2.1 **Selection.** At the annual meeting, the Board will select its officers from its regular membership. All officers are eligible for reelection
- 2.2 **Tenure.** The Chairman and Vice Chairman shall take office immediately following their election and shall hold office for a term of one year or until their successors are selected and assume office.
- 2.3 **Duties.** The Chairman shall preside at all meetings and hearings of the Board, shall decide all points of order or procedure, and shall appoint any committees that may be found necessary. The Vice Chairman shall assume the duties of the Chairman in the absence of the Chairman.
- 2.4 **Secretary to the Board.** As the official designee of the City Clerk, the Secretary will be the City Planner or the City Planner's representative. The Secretary shall conduct all official correspondence subject to these rules at the direction of the Board, shall send out all notices required, keep the minutes of the Board's proceedings, and keep a file on each case which comes before the Board. For applications, the Secretary may issue the proper forms; insure that information, maps and plats are compiled and ready for Board's review; cause vicinity property owners and other interested parties to be notified by mail of the time and place of hearings; and any other duties as determined by the Board.

SECTION 3. 0 MEETINGS

The following rules shall apply to the scheduling and the conducting of Board of Adjustment meetings.

- 3.1 **Regular Meetings.** Regular meetings shall be held the - third Monday of each month when requests are submitted which require Board action, or at the call of the Chairman.
- 3.2 **Annual Meeting.** The annual meeting shall be held at the first regular meeting of the year.
- 3.3 **Special Meetings.** Special meetings may be called by the Chairman, or at the request of three members of the Board, or at the request of the City Planner.
- 3.4 **Notice of Meetings.** Notice of meetings shall be given by the secretary to the members of the Board at least six days prior to meetings and shall state the purpose, time, and place of the meeting.
- 3.5 **Quorum.** A quorum of the Board shall consist of four (4) members.

- 3.6 **Public.** All meetings, public hearings, records, and accounts shall be open to the public.
- 3.7 **Order of Business.** The Secretary shall prepare an agenda for each meeting and send it to each Board member as part of the notification process. The order of business may be as follows:
- A.) CALL TO ORDER AND ROLL CALL
 - B.) PLEDGE OF ALLEGIANCE
 - C.) APPROVAL OF THE MINUTES OF PREVIOUS MEETING
 - D.) REQUESTS/PUBLIC HEARINGS
 - E.) REPORTS
 - F.) ADJOURNMENT
- 3.8 **Voting.** Voting will be by roll call and will be recorded by yeas, nays, abstention, or absence. All members of the Board present, including the Chairman, are required to cast a vote for each motion.. The minutes of the proceeding shall indicate the vote of each member on every matter acted upon, and shall indicate either the member's yea, nay, abstention or absence. In accordance with section 3.9, a member shall abstain if said member has declared a conflict of interest. The concurring vote of four (4) members shall be necessary on all matters upon which the Board is required to offer a decision under the provisions of the Zoning Title.
- 3.9 **Conflict of Interest.** Any member of the Board who has a direct or indirect interest, other than the common public interest, in any property or in the decision relating to such property, which shall be the subject matter of, or affected by, a decision of the Board, shall notify the Chairman in advance or any discussion of the agenda item, and shall be disqualified from participating in the discussion, decision, or proceedings of the Board in connection therewith; however, the member may participate as a member of the public. An alternate member shall be appointed by the Chairman of the Board of Adjustment to serve in place of that regular member having a conflict of interest, for only the purpose and time of resolving the question in which the conflict of interest for that regular member exists.
- 3.10 **Unfinished Business.** Where all applications cannot be disposed of on the day set, due to length of meeting or extenuating circumstances, the Board may adjourn to a time and place certain or until the next regular or special meeting, as the Board may decide.
- 3.11 **Board Action.** The Board may not vote on an application until all fees have been paid, all information requested of the applicant has been supplied, and a public hearing has been conducted.

SECTION 4.0 POWERS AND DUTIES.

The Board of Adjustment shall have the following powers and duties.

4.1 **Powers.** The Board shall have the powers granted by the Municipal Code as authorized by CRS 31-23-307, et. seq., and City of Woodland Park Municipal Code, Zoning Ordinance Section 18.51.140.

4.2 **Duties.** The Board shall have the following duties in duly exercising their powers.

A. **Appeals.**

- 1.) **Review.** The board shall review the application for an appeal, all papers constituting the record of the appeal, the ruling or order from which the appeal is taken, and the oral and written evidence presented to the Board at the public hearing.
- 2.) **Render Decisions.** The Board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and shall make such decision, or determination as ought to be made, and to that end, shall have all of the powers of the administrative officer from whom the appeal is taken.
- 3.) **Determination of Findings.** Upon rendering a decision for an appeal the Board shall state what information was considered pertaining to the appeal and what information was applicable to justify the decision.

B. **Variances**

- 1.) **Review.** The Board shall review the application for a variance, a site plan of the proposed development, planning department report, other applicable information, and the oral and written evidence presented to the Board at the public hearing.
- 2.) **Render Decision.** The Board may vary or modify the application of the City Municipal Code, Zoning Ordinance provisions, within limitations found in the Municipal Code, Zoning Ordinance, where there are practical difficulties or unnecessary hardships which exist due to a strict application of the regulation provisions. The Board shall evaluate requests for variances by using the variance criteria found in CRS 31-23-307. et. seq., and the City of Woodland Park Municipal Code, Zoning Ordinance, Section 18.60.010. In granting a variance, the Board may prescribe appropriate conditions.
- 3.) **Determination of Findings.** Upon rendering a decision for a variance, the Board shall state what information was considered pertaining to the variance and what information was applicable to justify the decision.

SECTION 5.0 PROCEDURES FOR HEARING CASES, RENDERING DECISIONS, DETERMINATION OF FINDINGS, AND THE APPEAL OF BOARD DECISIONS.

The following procedural rules shall apply to all requests coming before the Board of Adjustment:

- 5.1 **Application Form.** The applicant shall cause to be filed with the City Planner upon application forms provided by the Planning Department. The applicant shall complete the required application forms, providing all information requested by the forms and any additional information deemed necessary by the applicant and/or City Planner.
- 5.2 **Scheduling of Hearings.** Generally, an application filed according to the above procedure will be given a case number within five working days from the date filed. Applications will be assigned in the order in which they are received. Cases assigned to the Board less than twenty five (25) days prior to the regular meeting will automatically be set for hearing on the subsequent regular meeting agenda.
- 5.3 **Public Hearing Requirements.** The Board of Adjustment shall hold a public hearing on all applications subject to the notice provisions in City Charter and Code.
- 5.4 **Public Hearing Rules and Order.** The public hearing of the Board of Adjustment shall be held subject to the following general rules and order.
- A.) At the time of the public hearing the applicant may appear in his/her own behalf or be represented by agent or counsel. In the absence of any personal appearance on behalf of the applicant, the Board will proceed to act on or consider the matter on the forms and information provided.
 - B.) Generally, the order of the hearing will be as follows:
 1. The Chairman presents the order of the hearing, introduces the application and opens the Public Hearing.
 2. The applicant states his/her reason and justification for the application.
 3. The City Planner reviews the application, regulation provisions, City policy, impacts, correspondence, and may offer his/her concerns, opinions and recommendations.
 4. The City Attorney may offer his/her concerns, opinions and recommendation.
 5. Any interested person may offer their concerns and opinions.
 6. The applicant offers rebuttal and may cross-examine any person making a comment or presentation.
 7. The Board entertains discussion and may seek answers to questions raised by the presentation, at any time.
 8. The Board reviews the appropriate criteria for the specific application.
 9. The Chairman closes the public hearing.
- 5.5 **Request Deliberated.** The Board shall then deliberate the application. The Board may ask the applicant, City Planner, City Attorney and any other person present for comments and recommendations.

- 5.6 **Applicant May Withdraw Application.** The applicant or appellant may withdraw his/her application at any time prior to the decision by the Board of Adjustment.
- 5.7 **Decision Rendered.** The Board shall properly deliberate the application and render a decision. Final decision of any application shall be made in the form of a motion by anyone on the Board of Adjustment hearing the request.
- 5.8 **Written Determination of Findings.** Every decision of the Board of Adjustment for an application shall result in the formulation of written determination of findings, which specify the exceptional conditions, the practical difficulties, unnecessary hardships, the reasons for granting or denying the application, and any approved conditions and safeguards.
- 5.9 **Notification of Decision.** Within fifteen (15) days after the hearing and rendering of a decision, the Secretary of the Board shall notify the applicant of its decision by forwarding a copy of written determination of findings to the applicant.
- 5.10 **Rehearing of Application.** A rehearing of any decision of the Board may be made if the following occur: The motion to reconsider is made by a member of the Board and carried by not less than four affirmative votes, new evidence is submitted which could not reasonably have been presented at the original meeting, and the case is put on the agenda for rehearing at the next Board meeting.

SECTION 6.0 INFORMAL ADVICE.

The Board or individual members will not consider a request, informal or not, for advice on theoretical or actual situations which potentially may later come before the Board as an application for an appeal or a variance.

SECTION 7.0 AMENDMENTS.

A majority vote of all the members of the Board shall be necessary to amend these supplemental rules of procedure. Such proposed amendments will be presented in writing at any regular meeting of the Board of Adjustment.

These Rules of Procedure may be amended by majority vote of approval of the Board of Adjustment, followed by majority vote of approval of the City Council.

In Witness Whereof, the City of Woodland Park Board of Adjustment has Approved, Adopted and Signed these Rules of Procedure of the City of Woodland Park Board of Adjustment Upon the Day, Month and Year Specified Below. (The original Rules of Procedure were adopted November 10, 1988).

To be Effective Upon the Day of November 4 , 2005

Approved and Adopted by the BOA this 17 day of October, 2005.

City of Woodland Park
Board of Adjustment:

David Durnbach
Chairman

Passed by City Council

This 3rd day of November, 2005

Gary Crane
Mayor



Cindy Morse
City Clerk