

RULES OF PROCEDURE BOARD OF ADJUSTMENT

In compliance with 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 ordinances and Charter 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. Ref Municipal Code, Section [18.51.010](#).

1.1.1 Members of the Board shall be residents of the City of Woodland Park and shall have resided within the City for at least one year prior to his or her appointment.

1.2 Terms. Ref Municipal Code, Section [18.51.010](#).

1.3 Alternate Members. Ref Municipal Code, Section [18.51.020](#).

1.4 Compensation. Ref Municipal Code, Section [18.51.030](#).

1.5 Removal and Vacancy. Ref Municipal Code, Section [18.51.040](#).

SECTION 2.0 OFFICERS

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

2.1 Selection. At the first meeting of each calendar year, 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. Ref Municipal Code, Section [18.51.080](#).

A. For all Board actions except during the hearing of an Appeal

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, assist in keeping time limits on presentations and speakers, and keep a file on each case which

comes before the Board. For applications, the Secretary may issue the proper forms; ensure 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.

B. During Appeal Hearings only

The official designee of the City Clerk during the appeal hearing itself will not be from the City Planner's Office in order to minimize perception of conflicts of interest. The duties of the Secretary will be limited to taking the minutes of the meeting, assisting in keeping time limits on presentations and speakers, and general conduct of the meeting in order to minimize perception of conflicts of interest.

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 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.

3.3 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. Ref Municipal Code, Section [18.51.050](#).

3.5 Public. Ref Municipal Code, Sections [18.51.110](#) and [18.51.120](#).

3.5.1 All meetings, public hearings, records, and accounts shall be open to the public.

- A.** Public Persons addressing the Board will direct their remarks to the entire Board and shall exercise proper respect and decorum. Any person (or persons) disrupting a Board meeting will be given one verbal warning and then will be asked by the Chairman to cease the disruptive behavior. In the event of any disturbance or disorderly conduct the Chairman will have the power to order any individual or group of individuals to be cleared or removed from the meeting and will have authority to appoint a member of the Police Department as a temporary sergeant at arms for the purpose of preserving order in the physical meeting room.
- B.** The Board will only allow public comment related to areas over which the Board has jurisdiction and will politely halt any public discussion related to subjects over which the Board has no authority.
- C.** The Board will allow time and order to be yielded to other speakers. In order to maintain an efficient meeting flow, the Chairman may limit the

total amount of time any individual speaker may speak to five minutes and limit the total time for public comment. If the Chairman chooses to establish these time limitations for public discussion, they will be included in the posted meeting agenda, and he/she must also inform all in attendance at the start of the meeting.

3.6 Presenter Discussion. The Chairman may limit the scheduled time allocated for Variance Applicants, Appellants, and/or City presentations to 20 minutes each. If the Chairman chooses to establish these time limitations for presenter discussion, they will be included in the posted meeting agenda and he/she must also inform all presenters at the start of the hearing.

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 members shall be necessary on all matters upon which the Board is required to offer a decision under the provisions of the Title 18 - Zoning.

3.9 Conflict of Interest. Ref Municipal Code, Section 18.51.100.

3.9.1 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. He/she shall be disqualified (recused) from participating in the discussion, decision, or proceedings of the Board in connection therewith. A recused member shall be removed from the physical (or virtual) dais. 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 at which time, the recused member shall return to the physical (or virtual) dais.

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.

3.12 Communications.

- A. In Public Meetings.** Board members shall not communicate using non-public media during a meeting. Board members shall not communicate in any electronic format with another Board member during a meeting.
- B. Outside of Public Meetings.** Board Members shall not engage in ex-parte communications.

3.13 Executive Session. With proper justification, any Board member may request an executive session and present a motion to recess the Board meeting for an executive session. Upon a second to that motion and approval by a two-thirds majority of the Board, the Chairman shall recess the meeting and relocate for the executive session. Board members shall keep confidential all written material and verbal information provided to them during executive session. The intentional dissemination of confidential information received in executive session, whether written or oral, shall constitute misconduct of the office. Board Members shall direct any person seeking disclosure of documents to City Staff for processing pursuant to the requirement of the Colorado Open Records Act and the Colorado Open Meetings Law.

3.14 Confidentiality. Board members shall keep confidential all information and written material provided to Board members when such information is exempt from disclosure under law.

SECTION 4.0 POWERS AND DUTIES

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

4.1 Powers. Ref Municipal Code, Section [18.51.130](#).

4.2 Duties. Ref Municipal Code, Section [18.51.140](#).

4.2.1 The Board shall have the following duties in duly exercising their powers.

- A. Appeals.** Ref Municipal Code, Section [18.51.060](#) and Chapter [18.54](#).
 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. Only after reversing the order, requirement, decision or determination may the Board modify the whole or those parts which were reversed. They shall make such decisions, or determinations 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.
 4. Effective Date of Decisions. Decisions rendered by the Board shall be effective immediately upon completion of the hearing associated with the

appeal in question and shall be considered the Board's final decision. (see C.R.S. 31-23-307)

- B. Variances.** Ref Municipal Code, Section [18.51.060](#) and Chapter [18.60](#).
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, Title 18 - Zoning provisions, within limitations found in the Municipal Code, Title 18 - Zoning, where there are practical difficulties or unnecessary hardships which exist due to a strict application of the zoning provisions. 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.
 4. **Effective Date of Decisions.** Decisions rendered by the Board shall be effective immediately upon completion of the hearing associated with the variance in question and shall be considered the Board's final decision. (see C.R.S. 31-23-307)

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 an application 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. Ref Municipal Code, Section [18.72.060](#).

5.2.1 Applications will be assigned in the order in which they are received.

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 Manager and/or City Attorney may offer his/her concerns, opinions, and recommendation. (Ref Municipal Code, Section 18.51.070.)
 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 comments portion of the 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. If the Board determines that additional information is needed, the case may be tabled to a scheduled date.

5.6 Applicant May Withdraw or Request Tabling of the Application. The applicant or appellant may withdraw his/her application or request the hearing of the application be tabled 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 or an appeal shall result in the formulation of a written determination of findings, which would specify the reasons for granting or denying the application or appeal, summarize the exceptional conditions, the practical difficulties, unnecessary hardships associated with the application, and any approved conditions and safeguards including any modifications of the order, requirement, decision or determination appealed. The Secretary of the Board will notify the applicant of its decision by forwarding a copy of the written determination to the applicant within ten (10) calendar days after the hearing and rendering of the final decision. (Note: If the 10-day time limit falls on a Saturday, Sunday, or a State or City holiday, the notification will occur on the following City workday.)

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 or special 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 17th day of March, 2022.

Approved and Adopted by the Board on this 28th day of February, 2022.

BOARD OF ADJUSTMENT



CHAIRPERSON



VICE-CHAIRPERSON

CITY OF WOODLAND PARK CITY COUNCIL

REVIEWED AND ADOPTED THIS 17th DAY OF March, 2022.

CITY COUNCIL:



MAYOR

ATTEST:



CITY CLERK