

LAKWOOD BOARD OF ADJUSTMENT REGULAR MEETING AGENDA

CITY COUNCIL CHAMBERS
CIVIC CENTER SOUTH
470 S. ALLISON PARKWAY
LAKEWOOD, COLORADO

HOSTED VIRTUALLY AT LAKEWOODSPEAKS.ORG

December 1st, 2021

7:00 PM

-
- ITEM 1: CALL TO ORDER**
 - ITEM 2: ROLL CALL**
 - ITEM 3: ADOPTION OF THE BOARD OF ADJUSTMENT RULES AND REGULATIONS**
 - ITEM 4: ELECTION OF SECRETARY TO THE BOARD OF ADJUSTMENT**
 - ITEM 5: APPROVAL OF MINUTES OF THE JUNE 2, 2021 BOARD OF ADJUSTMENT REGULAR MEETING**
 - ITEM 6: GENERAL BUSINESS**
 - ITEM 7: ADJOURNMENT**

This meeting will be conducted using Zoom and the recording will be available after the meeting on the City of Lakewood YouTube account. The public may view the meeting live stream online at lakewoodspeaks.org.



CITY OF LAKEWOOD
RULES AND REGULATIONS GOVERNING
THE PROCEDURE OF
THE BOARD OF ADJUSTMENT
(AS ADOPTED)

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Adopted On January 6, 2009
Revised March 22, 2011

CITY OF LAKEWOOD

RULES AND REGULATIONS GOVERNING THE BOARD OF ADJUSTMENT

ARTICLE 1

GENERAL PROVISIONS

Section 1.1 Applicable City Charter, Local Ordinances, and Rules and Regulations

The Board of Adjustment (hereinafter referred to as “the Board”) shall be governed by the City Charter, local ordinances, and the rules and regulations of the Board as set forth herein.

Section 1.2 Requirements for Familiarity with City Charter, Local Ordinances, and Rules and Regulations Affecting the Board

Upon taking office, all members of the Board shall familiarize themselves with the materials listed in Section 1.1 above, and while in office, they shall maintain such knowledge, and knowledge of amendments and additions.

ARTICLE 2

MEMBERS AND OFFICERS

Section 2.1 Members

Members of the Board shall be residents of the City of Lakewood and Ward from which they are appointed and shall have such qualifications, as the City Council shall deem necessary and desirable in the best interests of the City. At-large members may reside in any ward.

Section 2.2 Officers

At the first regular meeting of any calendar year or at a date determined by the Board, the Board shall elect a Chair and a Vice-Chair. Each of the terms shall be for one year. The Chair or, in their absence, the Vice-Chair shall conduct the hearing in accordance with local ordinances and these rules and regulations. The officers are voting members and are accorded the same rights and privileges accorded other members.

Section 2.3 Secretary

The City of Lakewood shall provide the Board with a Secretary. The Secretary shall attend all public meetings and hearings, shall take and prepare minutes of meetings, showing the vote of each member upon every question, and shall administer oaths to people who want to testify during a public hearing. The Secretary shall be the custodian of the Board’s records, and shall conduct official correspondence, send out all notices, compile records and maintain the files.

Section 2.4 Advising Candidates During the Selection Process

It shall be the responsibility of the City Council Screening Committee to advise candidates applying for appointment to the Board of Adjustment of the commitment required in terms of time needed for the review of staff reports and regular attendance at meetings. Candidates shall indicate their ability to meet this commitment during their interview. Each candidate shall receive a copy of these rules and regulations upon receipt of the application.

Section 2.5 Appointment

The Board of Adjustment shall consist of seven (7) members appointed by City Council. The City Council shall appoint one (1) member from each Ward and shall appoint two (2) additional members from the City at large; provided there shall not be two (2) at-large appointments from the same ward.

Section 2.6 Term of Office

The terms of members shall be four (4) years or until such time as their successors are appointed.

Section 2.7 Compensation

Each member of the Board may be reimbursed for actual expenses incurred as such member. The expenses shall be documented to the Secretary to the Board.

Section 2.8 Removals for Cause

Any member may be removed for cause by the City Council upon presentation of written charges after a hearing. Failure to attend regular meetings on a consistent basis may be considered a cause for removal.

Section 2.9 Vacancies

A vacancy shall exist when any member dies, resigns, is removed for cause, is not reappointed, ceases to be a resident of the City or Ward, or becomes an elected official or an employee of the City. The City Council shall appoint a member to fill the unexpired term of the member whose place has become vacant.

ARTICLE 3

POWERS OF THE BOARD

Section 3.1 Appeals

The Board is authorized to hear appeals from any order, decision, requirement, or determination of the Director or their designee of the Community Planning and Development regarding the interpretation or application of the Zoning Ordinance.

Section 3.2 Numerical Variances

The Board may grant numerical variances such as, but not limited to, height, setback, and bulk requirements pertaining to structures; height, setback and square footage requirements pertaining to signs; number of required parking spaces; width of lots, and square footage of lot area.

Section 3.3 Flood Plain Variances

The Board is authorized to interpret Article 14: Flood Plain Management of the Zoning Ordinance and judge where variances from any of the provisions may be granted.

Section 3.4 Variances Related to Property Taken for Public Use

The Board may examine variance cases whereby a portion of a parcel of land is taken for public use such that the remaining portion of the parcel does not conform to the requirements of the Ordinance and causes a need for a variance.

Section 3.5 Conditions

The Board of Adjustment may impose any reasonable conditions upon the issuance of a variance and may approve a variance that is different from that requested by the applicant.

ARTICLE 4

CRITERIA FOR EVALUATING VARIANCES

Section 4.1 The criteria for variance evaluations will be in accordance with the Lakewood Zoning Ordinance.

ARTICLE 5

VARIANCE APPLICATIONS

Section 5.1 Applications

Applications shall be submitted to the City of Lakewood in accordance with the schedule provided to the applicant. Appeals from the Director and request for variances shall be made on forms provided by the Community Planning and Development Department and shall include the following:

- a. Fifteen (15) copies of plans of the property in question, accurately drawn to scale when any construction is involved. Plans should clearly indicate pertinent dimensions and all points at issue in the appeal or variance.
- b. A filing fee as required by resolution approved by the City Council to defray expenses incurred in the public hearing.
- c. Copy of the recorded deed for the property.
- d. If the applicant is not the property owner, a letter of authorization from the property owner must be included with application.
- e. Address labels and postage to send notice to neighbors within 300 feet of the subject property.
- f. Any additional information as required by staff so as to supply all of the information necessary for a clear understanding by the Board.

ARTICLE 6

CONDUCT OF MEMBERS

Section 6.1 Right of Floor

No member, staff or citizen shall speak unless recognized by the Chair according to Robert's Rules.

Section 6.2 Motions

After a resolution is introduced and seconded, the Chair shall restate the resolution and ask for discussion from Board members. After all Board members have had an opportunity to speak, the Chair shall instruct the Secretary to conduct a roll call vote. Members wishing to abstain shall signify by so stating, and shall then state the general grounds for their abstention.

Section 6.3 Representation of Applicant

No member of the Board shall represent applicants on matters on which the Board is to make determinations.

Section 6.4 Conflict of Interest

No member of the Board shall participate in any case, in which the member has financial or personal interest in the property or action concerned, or will be directly affected by the decision.

Section 6.5 Current Members May Not Appear Before the Board

Because of the quasi-judicial nature of the Board's proceedings, no member of the Board may personally appear as an applicant, proponent, opponent, interested party, witness or representative of any action before the Board.

Section 6.6 Expressions of Bias, Prejudice or Opinion

No member shall discuss the case with any other parties prior to the public hearing, or express any bias, prejudice, or individual opinion on proper judgment of the case prior to the hearing.

Section 6.7 Decorum and Order

The Chair shall preserve decorum and decide all questions of order before the Board. All meetings of the Board of Adjustment shall be in accordance with Robert's Rules of Order.

ARTICLE 7

MEETINGS AND HEARINGS

Section 7.1 Regular Meetings

Regular meetings of the Board of Adjustment shall be held at 7:00 P.M. on the 1st Tuesday of each month at the City of Lakewood Council Chambers, 480 South Allison Parkway, except as otherwise designated by the Board.

Section 7.2 Special Meetings

Special meetings may be called by the Chair or at the request of a majority of members.

Section 7.3 Study Sessions

Study sessions are informal meetings, open to the public, during which general planning topics are discussed which contribute to the continuing education and training of Board members.

Section 7.4 Continued Cases

Any regular meeting may be continued to the next regularly scheduled meeting or any other meeting, and such continuance shall not require additional public notice.

Section 7.5 Cancellation

If no business is scheduled before the Board, a meeting may be canceled by the Secretary to the Board after consulting with the Chair and by giving notice to all members at least two (2) hours before the time set for the hearing. If a quorum is not present, all matters shall be rescheduled to the next appropriate hearing date.

Section 7.6 Quorum

A quorum of the Board shall consist of five (5) members. A concurring vote of a majority of those members present is required to approve any matter before the Board. If a quorum is not present, all matters on the agenda shall be rescheduled.

Section 7.7 Order of Business at Meetings

Unless changed by a majority vote of all members present, the order of business at a meeting shall be as follows:

- a. Call to Order
- b. Roll Call of Members
- c. Public Hearing Case
- d. Approval of Minutes
- e. Other Business
- f. Adjournment

Section 7.8 Public Hearings

- a. The Board shall hold a public hearing on all applications and appeals, as required by the Zoning Ordinance.
- b. At least fifteen (15) days before the public hearing:
 1. The applicant shall post the property;
 2. Staff shall send a letter to property owners within three hundred (300) feet of the property under review.
- c. During every meeting prior to the first public hearing, the Chair shall explain to those present the order of business at a public hearing. The Chair shall also inform them as to the requirements of the law and what must be proven to substantiate their application request.
- d. Those citizens who want to testify during any public hearing shall be sworn in by the Secretary. Prior to any individual giving testimony, the Chair shall instruct the Secretary to administer the oath.
- e. The order of business for each case at a public hearing shall be as follows:
 1. The Chair shall announce the case;
 2. The applicant shall present the case;
 3. The staff person shall present the staff report;
 4. Persons wishing to comment upon the applicant's request may speak;
 5. The Board may question the applicant, interested persons and staff;
 6. The Board shall close the public hearing and discuss the case;
 7. The Board makes findings and votes on the application; and
 8. The Chair shall state the outcome of the vote.
- f. Any materials presented to the Board during the public hearing must be identified and entered into the record as an exhibit.

- g. The Board shall approve, modify or deny variances, appeals and other substantive matters before the Board using the form of a resolution.
- h. The Board shall keep minutes of its proceedings and it shall also keep records of its examinations and of the official actions, all of which shall be filed immediately in the offices of the City and shall be public record.
- i. Approval of meeting minutes:
The minutes of any meeting may be approved by the Board members receiving them and reviewing them in electronic format or facsimile.

ARTICLE 8

RECONSIDERATION AND APPEALS

Section 8.1 Reconsideration


The Board of Adjustment according to Robert's Rules of Order may allow reconsideration of all cases.

Section 8.2 Appeal

The decision of the Board shall be final. Any decision of the Board may be appealed to the Jefferson County District Court within thirty (30) days.

RECOMMENDED AND APPROVED:

By:




Jay N. Hutchison, Director
Planning and Public Works

By:



Alan Beshany, Chair
Lakewood Board of Adjustment

APPROVED AS TO FORM:



By: Tim Cox, City Attorney

CITY OF LAKEWOOD
RULES AND REGULATIONS GOVERNING
THE PROCEDURE OF
THE BOARD OF ADJUSTMENT
(AS ADOPTED MONTH DAY, YEAR)

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ARTICLE 1

GENERAL PROVISIONS

Section 1.1 Applicable Law

The Board of Adjustment (hereinafter referred to as “the Board”) is established by Section 9.1 of the City of Lakewood home rule charter (the “Charter”). The Board shall be governed by the Charter, the Lakewood Municipal Code (the “LMC”), City ordinances, applicable State Law, and these Rules and Regulations (collectively referred to hereinafter as “Applicable Law”).

Section 1.2 General Duties

- A. Upon taking office, all Members of the Board (hereinafter, each a “Member”) shall familiarize themselves with Applicable Law and all information provided pertaining to cases presented for review to the Board, and while in office, shall maintain such knowledge and apprise themselves of all amendments and additions to any of the foregoing.
- B. Members should make a good faith effort to visit any site which is the subject of a request for review by the Board for the purpose of acquainting themselves with the site’s physical layout and its relation to surrounding properties and uses, and to help them in visualizing the effect of granting the particular request.

ARTICLE 2

MEMBERS AND OFFICERS

Section 2.1 Membership

- A. Residency. Every Member shall be a resident of the City of Lakewood and the ward from which they are appointed and shall have such qualifications as the City Council deems necessary and desirable in the best interests of the City. At-large Members may reside in any ward.
- B. Early Termination of Term – Continuance of Service. A Member appointed to represent a ward who resigns or moves from the ward during their term may continue to serve on the Board until a successor is appointed. A Member appointed to represent the city at large and who resigns or moves from the city during their term may continue to serve on the Board until a successor is appointed. The Board shall encourage City Council to appoint a successor within six (6) months of the termination of the term.

Section 2.2 Appointment

The Board consists of seven (7) Members appointed by the City Council. The City Council will appoint one (1) Member from each of the City’s five (5) wards and two (2) additional Members from the City at large; provided, however, there shall not be two (2) at-large appointments from the same ward.

Section 2.3 Advising Candidates During the Selection Process

The Board encourages the City Council Screening Committee to advise candidates applying for appointment to the Board of the estimated time commitment required for service on the Board, including regular attendance at meetings and review of staff reports and other materials, and of the need for Members to be familiar with these Rules and Regulations. The Board further encourages the City Council Screening Committee to ask each candidate during their interview to agree to meet these obligations if appointed. Each candidate shall receive a copy of these Rules and Regulations upon receipt of their appointment.

Section 2.4 Terms of Office

- A. Term of Office. Except as otherwise provided herein, each Member will serve a term of four (4) years. Any Member appointed to fill an unexpired term shall serve until the end of such term. Board Members may serve a maximum of two (2) consecutive terms. This limitation applies whether the person is appointed as a representative of a ward or as a representative of the city at large; provided, however, for the purposes of this limitation, any person appointed to fill an unexpired term who serves or has served at least one-half of a term shall be considered to have served one (1) full term.
- B. Resignation. The resignation of a Board Member shall be in writing addressed to the City Council, with copies provided to the City Clerk, the Board Chair and the Board Clerk. A letter of resignation may be served via email, in person at a regular meeting of all Board Members, or by regular mail.

Section 2.5 Clerk to the Board of Adjustment

- A. The City shall provide the Board with a Clerk. The Clerk shall not be a Member of the Board but shall be an employee of the City. The Clerk shall serve until replaced by the City.¹
- B. At the direction of the Chair, the Clerk shall be responsible for: (a) attending meetings and hearings; (b) preparing the agendas for meetings; (c) taking and preparing minutes of meetings showing the vote of each Board Member upon every question; and (d) administering the oath to those who want to testify during quasi-judicial public hearing. The Clerk shall be the custodian of the Board's records and as such shall prepare all official correspondence, send out all notices, compile records and maintain Board files.
- C. Before each regular Board meeting, the Clerk shall have delivered to each Member a packet containing: (a) the agenda for the next meeting; (b) the staff report and any submissions made relative to items on the agenda; and (c) a copy of the minutes of the previous meeting (if available). The Clerk shall be responsible for all digital and

¹ Previous versions of these Rules and Regulations and other City documents may refer to the Secretary to the Board of Adjustment.

physical postings of materials referenced in the Board packet to locations established annually by the City Council.

Section 2.6 Officers

The officers of the Board shall be the Chair, Vice-Chair and Secretary. The Board shall hold its annual election of officers at the first regular meeting after the Board is seated for the year. The terms of the Chair and Vice-Chair shall be for one year or until the first regular meeting after new Members are seated. All officers shall have the same voting rights as other Board Members.

- A. Chair. The selection of the Chair shall be held by ballot or roll call vote. The Clerk shall preside until the Chair is elected. In the event of a tie vote, with the tied candidates having a greater number of votes than any other Member running for Chair, the Clerk shall disclose the names of the tied candidates and another ballot shall be taken, until one candidate for Chair has received a majority vote of all seated Board Members. The Chair shall conduct Board meetings in accordance with Applicable Law.
- B. Vice-Chair. The Vice-Chair shall be selected in the same manner as the Chair. The Vice-Chair shall perform the same functions as the Chair during the disqualification, absence or disability of the Chair, or may be designated acting Chair at the discretion of the Chair. In case of vacancy in the office of Chair, the Vice-Chair shall succeed the Chair and serve the unexpired term as Chair. A new Vice-Chair shall be selected at the next regular session of the Board.
- C. Secretary. The Secretary shall be a Member of the Board selected in the same manner as the Chair and Vice-Chair. In the absence of the Chair and the Vice-Chair, the Secretary of the Board shall preside.

Section 2.7 Compensation

Each Board Member shall receive such compensation as is set by the City Council, including being reimbursed for actual expenses incurred as a Board Member. All expenses must be documented to the Clerk.

Section 2.8 Removal of Members

Upon presentation of written charges, and after a hearing thereon, the City Council may remove for cause any Member.

Section 2.9 Vacancies

A vacancy shall exist when any Member dies, resigns, is removed pursuant to City policy, is not reappointed, ceases to be a resident of the City or applicable ward, or becomes an elected official or an employee of the City. The City Council shall appoint a new Member to fill the unexpired term of the Member whose position has become vacant. A Member who ceases to be a resident of the ward may continue to serve until a new Member has been appointed by the City Council.

Should ward boundaries be changed, causing the two at-large Members to reside in the same ward, the at-large Member with the shortest remaining term shall be deemed to have automatically vacated the position. City Council shall thereupon appoint a new at-large Member to serve the balance of the term.

ARTICLE 3

POWERS OF THE BOARD

Section 3.1 Appeals

The Board is authorized to hear appeals from any order, decision, requirement, or determination of the Director of the Planning Department or their designee (collectively, the "Director") regarding the interpretation or application of the Zoning Ordinance made pursuant to section 17.1.7.1.B.1 thereof.

Section 3.2 Numerical Variances

The Board may grant numerical variances such as, but not limited to, height, setback, and bulk requirements pertaining to structures; height, setback and square footage requirements pertaining to signs; number of required parking spaces; width of lots, and square footage of lot area.

Section 3.3 Flood Plain Variances

In accordance with LMC section 14.25.190, the Board is authorized to interpret LMC Chapter 14.25: Flood Plain Management and judge where variances from any of the provisions may be granted.

Section 3.4 Variances Related to Property Taken for Public Use

The Board may examine variance cases whereby a portion of a parcel of land is taken for public use such that the remaining portion of the parcel does not conform to the requirements of the Ordinance and causes a need for a variance.

Section 3.5 Approval Criteria

The criteria for variance evaluations will be in accordance with the Lakewood Zoning Ordinance.

Section 3.6 Conditions

The Board of Adjustment may impose any reasonable conditions upon the issuance of a variance and may approve a variance that is different from that requested by the applicant.

ARTICLE 4

VARIANCE APPLICATIONS

Section 4.1 Applications

Applications shall be submitted to the City of Lakewood in accordance with the schedule provided to the applicant. Appeals from the Director and request for variances shall be made on forms provided by the Planning Department.

ARTICLE 5

CONDUCT OF MEMBERS

Section 5.1 Robert's Rules of Order

The Board shall generally follow Robert's Rules of Order as modified by these Rules and Regulations, the Colorado Open Meetings Law, and the Colorado Open Records Law, and all other Applicable Law.

Section 5.2 Right of Floor

No person, including Board Members, staff, applicants and the public, may speak unless recognized by the Chair.

Meetings held via electronic or telephonic medium shall conform to standard modifications to Robert's Rules of Order, as set forth within Robert's Rules of Order, 12th Ed. 2021.

Section 5.3 Motions

After a motion is made and seconded, the Chair shall open the matter for discussion among Members. After all Members have had an opportunity to speak, the Chair shall instruct the Clerk to conduct a roll call vote. A concurring vote of a majority of those Members present is required to approve or deny any matter before the Board.

Any amendment to a motion, whether it is for the purpose of adding to, deleting from, or changing the character of the original motion, shall require a majority vote of Members for adoption of the amendment. Following approval of the amendment, the Board shall return to the main motion as amended.

All votes upon final decisions directly impacting any real property shall be by roll call. On matters of a purely administrative nature, the Chair may call for votes to be registered by ayes and nays or other less formal voting procedure.

With the exception of a motion made to approve or deny an application in a quasi-judicial hearing, the Board may reconsider any motion made within the same meeting, in accordance with Robert's Rules of Order.

Section 5.4 Conflict of Interest

No Member shall participate in any case in which they have a financial interest in the property or action concerned. Any Member may voluntarily recuse themselves because of any conflict of interest, following disclosure of the nature of the conflict on the record. Upon being recused from a matter pending before the Board set for quasi-judicial hearing, the Member shall remove themselves from the official seating of the Board to avoid any perception of seeking to influence other Members but need not remove themselves from the room.

Section 5.5 Commissioners May Not Appear Before the Commission

No Member may appear before the Board as an applicant, witness or representative in any matter on which the Board is to make a decision or recommendation.

Section 5.6 Ex parte Communication, Expressions of Bias, Prejudice or Opinion

No Member shall discuss any quasi-judicial matter pending before the Board, except with City staff, outside of the public hearing. Members may discuss legislative matters and other general matters pertaining to planning and development in the City outside of public hearings, so long as Members comply with the Colorado Open Meetings Law.

No Member shall vote on any quasi-judicial matter on which they have any bias or prejudice or have formed an opinion on the outcome of the matter before the hearing.

Section 5.7 Decorum and Order

The Chair is tasked with enforcing these Rules of Procedure in a manner appropriate for a public meeting to assure efficient and well-run public meetings at which all scheduled business is accomplished, voices are equally heard, and differences of opinion air aired amicably. The Board expects civility among and between the Board and members of the public while in meetings. Narrow rules of decorum during public hearings shall be enforced by reminding speakers to limit speech to the matter before the Board, to return to the issue before the Board if they go off topic, and to refrain from using excessive profanity. The Chair may move, second and debate from the chair, subject only to such limitations of debate as are by these rules imposed on all Members, and shall not be deprived of any of the rights and privileges of a Board Member by reason of acting as the presiding officer.

ARTICLE 6

MEETINGS AND HEARINGS

Section 6.1 Regular Meetings

Regular meetings of the Board of Adjustment shall be held on Wednesdays at 7:00 pm **as needed** at the City of Lakewood Council Chambers, 480 South Allison Parkway, except as otherwise designated by the Board. Changes in meeting times and dates shall be posted with the agenda for such meetings.

Section 6.2 Special Meetings

Special meetings may be called by the Chair or at the request of a majority of Members.

Section 6.3 Study Sessions

Study sessions are informal meetings, open to the public, during which general planning topics are discussed which contribute to the continuing education and training of Members.

Section 6.4 Continued Cases

Any regular meeting agenda item may be continued to the next scheduled meeting, and any public hearing may be continued to a date certain, and no such continuance shall require additional written public notice and publication.

Section 6.5 Cancellation

If no business is scheduled before the Board, a meeting may be canceled by the Clerk to the Board after consulting with the Chair and by giving notice to all Members at least two (2) hours before the time set for the hearing.

Section 6.6 Quorum

A quorum of the Board shall consist of five (5) Members. A concurring vote of a majority of those Members present is required to approve or deny any matter before the Board. If a quorum is not present, all matters shall be rescheduled to the next appropriate hearing date.

Section 6.7 Order of Business at Meetings

Unless changed by a majority vote of all Members present, the order of business at a meeting shall be as follows:

- A. Call to Order
- B. Roll Call of Members
- C. Public Hearing Case
- D. Approval of Minutes
- E. Other Business
- F. Adjournment

Section 6.8 Public Hearings

- A. The Board shall hold a public hearing on all applications, as set forth in the Zoning Ordinance. Hearings on appeals from an order, decision, requirement, or determination of the Director made pursuant to Zoning Ordinance section 17.1.7.1.B.1. are not public hearings for the purposes of taking public comment or testimony.
- B. Notice. At least fourteen (14) days before the public hearing, in accordance with the Zoning Ordinance:

1. The applicant shall post the property; and
 2. Staff shall send a letter to property owners within three hundred (300) feet of the property under review.
- C. During every meeting, prior to the first public hearing, the Chair shall describe to the applicants, the public, and others present the order of business on the agenda. The Chair shall also explain the requirements of the law and what must be proven in order to prevail on the application request.
- D. Public Hearing Order of Business. The order of business for each public hearing shall be as follows:
1. Staff Presentation. City staff shall make a presentation and recommendation to the Board.
 2. Applicant Presentation. The applicant shall be allowed up to twenty (20) minutes to present its request and all supporting evidence, including any testimony and documentary evidence.
 3. Presentation of Prearranged Challenge to Variance Application.
 - a. In the event of a prearranged challenge to a variance application, such challenge, including testimony and documentary evidence, must be presented in no more than twenty (20) minutes.
 - b. For the purposes of this section, "prearranged challenge" shall mean a group of three (3) or more individuals, with legal standing to challenge the application, who provide to the Director for posting on Lakewood Speaks, not less than fifteen (15) days prior to the public hearing, a recorded presentation in opposition to the application; provided, however, that such presentation shall not consist merely of commentary on the request, but shall be a presentation of evidence showing why the application should not be granted.
 4. Rebuttal. In the event of a prearranged challenge pursuant to subsection 3 above, the applicant shall be allowed five (5) minutes for rebuttal thereto.
 5. Additional comments from City staff, if any.
 6. Public Testimony.
 - a. All persons desiring to be heard by the Board regarding a variance application shall state their name and address, or their name and Ward, for the record, and shall attest by sworn oath, given by the Clerk, that all evidence they present shall be the truth.
 - b. Once the Board has heard all persons desiring to testify, the Chair shall close the public testimony period.
 7. Board Questions. The Chair shall invite questions from the Board. Board shall direct questions only to the applicant, the prearranged challengers, if any, and City staff.

8. Closing the Public Hearing. Upon completion of Board questions, the Chair shall close the public hearing.
9. Motion.
 - a. The Chair shall request a motion for action on the application.
 - If a lesser variance is considered to be a reasonable alternative to granting or denying a variance request as presented, a Member may move to grant a lesser variance.
 - b. State the motion.
 - c. Discuss the motion.
10. Vote.
 - a. Call for a vote on the motion.
 - b. Announce the vote and the result.
- E. The Board shall approve, modify or deny variances, appeals and other substantive matters before the Board by resolution.
- F. Any materials presented to the Board during a public hearing must be identified and entered into the record as an exhibit.
- G. The minutes of any meeting shall be approved by the Board Members receiving them and reviewing them in electronic format or facsimile. The Board shall keep minutes of its proceedings and it shall also keep records of its examinations and of the official actions, all of which shall be filed immediately in the offices of the City and shall be public record.

ARTICLE 7

RECONSIDERATION AND APPEALS

Section 7.1 Reconsideration

The Board may reconsider any official action, in accordance with Robert's Rules of Order, provided that (a) no additional testimony or evidence is presented, and (b) all parties to the reconsideration are present.

Section 7.2 Tie Votes

In the event of a tie vote on any variance or appeal, the Board shall/may immediately deliberate and vote a second time. This deliberation shall be limited to fifteen (15) minutes, and no additional comments, input or evidence may be taken. If the second vote ends in a tie, the Board shall continue the matter to a date certain, which shall be no less than 7, and no more than 21, days after the original vote and on which all parties are able to attend. At such meeting, the Board shall again deliberate and vote on the matter. Deliberation at such meeting shall be limited to thirty (30) minutes, and no additional

comments, input or evidence may be taken. In the even the vote remains tied, the matter shall be determined to have been defeated, as though more “nay” votes were received than “yea” votes.

Section 7.3 Appeal

The decision of the Board shall be final. Any decision of the Board may be appealed to the Jefferson County District Court in accordance with the Colorado Rules of Civil Procedure.

DRAFT

Adopted by the Lakewood Board of Adjustment this ____ day of _____, 2021

RECOMMENDED AND APPROVED:

By:

By:

Travis Parker, Planning Director

Alan Heald, Chair
Lakewood Board of Adjustment

APPROVED AS TO FORM:

By: Alison McKenney Brown, City Attorney

DRAFT