

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

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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