

## **SANDY CITY BOARD OF ADJUSTMENT RULES OF PROCEDURE**

### **Rule 1. Regular Meetings**

The Sandy Board of Adjustment (Board) shall hold a regular meeting on the second Thursday of each month, except as follows:

1.1 That if a regular meeting day is a legal holiday; the meeting shall be held on the fourth Thursday unless some other date is fixed by the chair or the Board;

1.2 When no business other than the approval of minutes is scheduled; or

1.3 When a quorum of the Board is unavailable.

1.4 Notice and other aspects of meetings of the Board shall comply with the Utah Open and Public Meetings Act, Utah Code Sections 52-4-101 and following sections.

### **Rule 2. Special, Emergency, Recessed and Electronic Meetings**

**2.1 Special Meetings.** The chair or a majority of the members may at any time call a special meeting of the Board. At least twenty-four hours before a special meeting called in this manner, written notice of the meeting stating its time and place and the subjects to be considered shall be in compliance with any applicable statutes or ordinances.

**2.2 Special Meeting Scheduled by Vote.** A special meeting may also be called or scheduled by vote of the Board in open session during another duly called meeting. The motion or resolution calling or scheduling the special meeting shall specify its time, place, and purpose. At least twenty-four hours before a special meeting called in this manner, notice of the time, place, and purpose of the meeting shall be given as required by law

**2.3 Emergency Meetings.** A majority of the members may at any time call an emergency or urgently needed meeting of the Board by approving the meeting. Written or oral notice of the meeting shall be given to each Board member and alternate and as required by law. Only business of an urgent or emergency nature may be considered at an emergency meeting. Notice of the meeting shall be given as required for emergency meetings in the Utah Open Meetings Act, Utah Code Sections 52-4-101 and following sections.

**2.4 Recessed or Adjourned Meetings.** A properly called regular, special, or emergency meeting may be recessed or adjourned to a time and place certain by a procedural motion made and adopted in open session during the regular, special, or emergency meeting. The motion shall state the time and place when the meeting will reconvene.

**2.5 Electronic Meetings.** The Board may hold electronic meetings by telephone, computer, or other telecommunication device. Members who participate in a Board meeting through electronic means shall be counted in the quorum.

**2.5.1 Anchor location.**

An anchor location is the physical location from which a meeting originates or at which the participants are connected to others by telephone, computer, or other telecommunication device. In accordance with Utah Code Section 52-4-207(4-5), unless a determination is made that maintaining an anchor location presents substantial risk to the health or safety of those present, the Chair shall establish at least one anchor location where interested persons and the public may attend and monitor the open portions of the meeting, and if applicable, participate in a public meeting.

**2.5.2 Other locations, procedures, conditions.** The chair in the chair's discretion shall determine the number and location of separate connections for members of the Board, parties or others who wish to participate in the meeting, which may be based on available equipment capability, time, expense, and other considerations.

**2.5.3 Notice.** The Board shall give public notice of the meeting in compliance with Utah Code Sections 52-4-202 and 52-4-207. The Board shall

2.5.3.1 Post written notice of the electronic meeting at the anchor location.

2.5.3.2 In addition to giving public notice required herein, provide:

2.5.3.2.1 Notice of the electronic meeting to the members of the Board at least 24 hours before the meeting; and

2.5.3.2.2 A description of how the members will be connected to the electronic meeting; and

2.5.3.2.3 A description of the anchor location, where the Board shall provide space and facilities at the anchor location.

2.6 Notice and other aspects of meetings of the Board shall comply with the Utah Open and Public Meetings Act, Utah Code Sections 52-4-101 and following sections.

**Rule 3. Organizational Meeting**

**3.1 Elect Officers.** On the date and at the time of the first regular meeting in January, or at such later date as the Board may call its first meeting of the year, or

if no meeting is held during a year, then at the first meeting of a later year, the Board shall elect a chair and vice-chair by majority vote. If no member receives a majority in the first ballot then the balloting shall continue until a member receives a majority.

**3.2 Terms of Officers.** The chair and vice chair shall serve until a new chair and vice chair are elected at the first regular meeting of the next calendar year as provided in Section 3.1. Officers may be re-elected to the same office in subsequent years.

**Rule 4. Hearing Meeting Procedure, Evidence, Attendance**

**4.1 Order and Presentation.** The chair or a majority of the Board may determine the length and order of presentation at hearingsmeetings. The presentation of information and argument to the Board may follow the order set out below, in the discretion of the chair. The chair may provide that each party or person speak only once.

- Staff introduction
- Presentation by the petitioner or appellant
- Staff presentation
- Public comment only when related to ~~the petition, appeal or a variance~~ request (public comment is not applicable to appeals)
- Response by petitioner or appellant
- Questions of the applicant, staff, and others by the Board
- Discussion of the issue by the Board
- Motions and decision by the Board

The Board may limit the time for considering a matter, and the time parties and others may present evidence, comment and argument. The Board members, and in the chair's discretion, the Board's counsel and staff, may question any witness, staff member, party or representative during the hearingmeeting.

**4.2 Evidence, Witnesses.** The Board shall not be bound by strict rules of evidence. The chair may place witnesses under oath, in the chair's discretion. The Board may consider evidence which would not be admissible in a court of law but it may exclude irrelevant, immaterial, incompetent, defamatory, scurrilous or unsupported evidence, or unduly repetitious testimony or evidence, or evidence which would not be admissible in a court of law. The chair shall rule on questions relating to the admissibility of evidence. The chair may compel the attendance of witnesses.

**4.3 Attendance, Behavior.** Members of the Board are expected to attend scheduled meetings unless excused due to personal circumstances. The chair or a majority of the Board or the support staff may recommend that a Board member be removed for too many absences, for one or more significant violations of these

Rules, or a criminal conviction of or substantial evidence of a crime of moral turpitude, for acts which relate to the service of Board member, or for behavior unbecoming a member of the Board, for significant unjustified obstruction of the operation of the Board.

**4.4 Recesses, continuances.** Meetings, ~~hearings~~ and decisions may be recessed or continued from time to time at the discretion of the Board.

**4.5 Appointments to find facts.** The Board may appoint one of its members, its staff, or others to find facts and to make recommendations to the Board.

**4.6 Failure to Attend a ~~Hearing~~Meeting by Applicant.** The applicant or appellant is not required to attend a ~~hearing~~meeting. The Board may hear the matter with or without the applicant in attendance.

### **Rule 5. Presiding Officer**

5.1 The chair of the Board shall preside at Board meetings if he or she is present. The chair may vote in all cases.

5.2 If the chair is absent or unable to preside, the vice-chair shall preside. If both the chair and vice-chair are absent or unable to preside, another member chosen by vote of the Board shall preside. The vice-chair or another member who is temporarily presiding retains all of his or her rights as a member, including the right to make motions and the right to vote.

### **Rule 6. Action by the Board**

The Board shall proceed by motion, except as otherwise provided herein. Any member, including the chair, may make a motion.

**6.1 Withdrawal of Request.** If the applicant withdraws a request, the case is closed; a new application must be submitted if the request is thereafter reviewed.

**6.2 Continued Matters.** Cases continued by the Board for lack of information or for necessary actions to be taken by the applicant shall be to a date certain. If the applicant does not submit the information or take the actions by the continuance date, the Board shall either continue the case again or dismiss the case without prejudice to the applicant's right to resubmit the matter. The Board shall not grant multiple continuances without good cause.

### **Rule 7. Motions - Second Required**

A motion requires a second.

### **Rule 8. Adoption by Majority Vote**

8.1 A motion shall be adopted by a majority of the votes cast, a quorum as defined in Rule 14 being present, provided that when hearing a request for a variance, ~~special exception~~, or alleged error to reverse any order, requirement, decision, or determination of any administrative officials or agency, or to decide in favor of the appellant, the concurring vote of three members of the Board is necessary unless otherwise required by law. A decision or ruling by the chair may be overruled by motion and majority vote of the Board.

8.2 Members of the Board do not vote on any question unless the member is present in-person or by telephone, computer, or other telecommunication device when the vote is taken.

8.3 No proxy voting is allowed.

8.4 The Board shall take all votes by roll call unless a vote is unanimous.

### **Rule 9. Voting by Written Ballot**

The Board may choose by majority vote to use written ballots in voting on a motion. Such ballots shall be signed, and the minutes of the Board shall show the vote of each member voting. The ballots shall be available for public inspection in the office of the Board's secretary immediately following the meeting at which the vote took place.

### **Rule 10. Ratification of Actions**

To the extent permitted by law, the Board may ratify actions taken on its behalf but without its prior approval.

### **Rule 11. To Reconsider**

The Board may vote to reconsider its action on a matter. The motion to do so must be made by a member who voted with the prevailing side (the majority, except in the case of a tie; in that case the "no's" prevail) and only at the meeting during which the original vote was taken, including any continuation of that meeting through recess to a time and place certain.

### **Rule 12. To Rescind or Repeal**

The Board may vote to rescind actions it has previously taken or to repeal items that it has previously adopted.

### **Rule 13. Withdrawal of Motion**

A motion may be withdrawn by the introducer at any time before it is amended or before the chair puts the motion to a vote, whichever occurs first.

#### **Rule 14. Quorum**

A majority of the members of the Board shall constitute a quorum. The chair shall be considered a member of the Board in determining the number on which a majority is based and in counting the number of members present. Board members participating in a meeting either in-person or via electronic means shall be counted as present for purposes of determining whether a quorum is present at the meeting.

#### **Rule 15. Alternate Members**

**15.1 Alternate Members May Sit with Board.** One or two alternate members of the Board may sit at any meeting of the Board but shall not vote as members of the Board except as set out the following subsection.

**15.2 Service of Alternate Members** If a regular member of the Board does not attend a hearing meeting of the Board, is removed, excuses himself, or for any other reason does not sit at a meeting or on any matter before the Board, then an alternate member in attendance at the meeting shall sit as a member of the Board in the place of that member. If two or more regular members of the Board do not sit on a matter for any reason, then two alternate members in attendance may sit on the matter in their place. The chair shall establish a service rotation system which provides that alternate members serve on the Board approximately the same amount.

#### **Rule 16. Effective Date**

Decisions of the Board become ~~effective at the meeting in which the decision is made, unless a different time is designated in the Board's rules or at the time the decision is made.~~ final on the date when the appeal authority issues a written decision or approval of the minutes of the meeting at which the decision was made, if applicable, whichever comes first.

**Rule 17. Correspondence with Board Members.** Correspondence to and among Board members and Board staff may be made by United States mail, e-mail, courier, or other reliable means to each Board member at an address acceptable to him or her.

#### **Rule 18. Approval of Minutes When No Meeting is Scheduled**

Unless otherwise determined by the Board at a meeting, the chair (or at the chair's request or in the chair's absence for more than two weeks following a Board meeting, the vice-chair) may, when no meeting is expected to be held in the next month, or for other good cause, send or request that the Board secretary send a

draft copy of the minutes to Board members with a request that they review and send to the chair suggested corrections to the minutes by a date certain, which shall not be less than five business days from the date received by the Board members. The chair shall promptly make the proposed corrections or may request that the vice-chair promptly make the corrections. The minutes with the proposed corrections clearly marked in clearly readable text in a format the recipient is likely to be able to read shall be sent to each Board member for approval with a date by which approval or disapproval must be sent in writing to the chair, which date shall not be less than three business days from the date received by each Board member. The chair shall sign the version of the minutes approved by a majority of the Board members who attended the meeting for which the minutes were made, and then shall promptly so notify the Board members with a copy of the approved minutes. The original signed paper copy of the approved minutes shall be sent by U.S. mail, courier, or some other reliable means to the Board secretary, who shall file the minutes in the records of the Board.

**END OF RULES**