

**CITY OF FAIR OAKS RANCH, TEXAS**  
**BOARD OF APPEALS**  
**RULES OF PROCEDURE**  
(Suggested)

**1.0 Statement**

It is hereby declared that appointment to the Board of Appeals is a distinct honor and the trust imposed in the appointee involves the corresponding obligation of the appointee to serve the community by regular attendance and participation in the proceedings of the body.

**2.0 Creation and Membership**

- 2.1 The Board of Appeals was established, under Ordinance 2015-11, and members serve at the will of the City Council.
- 2.2 **Membership of board.** The Board of Appeals shall consist of three persons appointed by the City Council, by Resolution, to serve at the will of the City Council or until a successor has been appointed.
- 2.3 The Building Official shall be an ex officio member of said board but shall have no vote on any matter before the Board.
- 2.4 **Alternate members.** The City Council, shall appoint one alternate member who shall be called by the Board Chairperson to hear appeals during the absence or disqualification of a member. The alternate member shall possess the qualifications required for board membership and shall serve at the will of the City Council or until a successor has been appointed.
- 2.5 **Qualifications.** The Board shall consist of members who are qualified by experience and training to pass on matters pertaining to building construction and are not employees of the jurisdiction.
- 2.6 **Disqualification of member.** A member shall not hear an appeal in which that member has a personal, professional or financial interest.

**3.0 Officers**

- 3.1 **Chairperson.** The Board shall select one of its members to serve as chairperson. The chairperson shall serve at the will of the Board.
- 3.2 **Secretary.** A Building Codes Administrative Assistant shall be designated as the Board of Appeals secretary. The secretary shall file a detailed record of all proceedings in the office of the City Secretary.
- 3.3 **Absence.** In the absence of the Chairperson the Board shall elect an Acting Chairperson.

#### 4.0 Officers Duties

- 4.1 The Chairperson shall preside over all posted meetings and perform all duties as required (by law; Chapter 211, Texas Local Government Code, and Chapter 551, Texas Government Code.)
- 4.2 The Secretary shall publicly post all meetings of the Board, take minutes of all meetings and aid in all correspondence associated with the authorized function of the Board of Appeals

#### 5.0 Powers and Duties of the Board

- 5.1 **General.** The role of the Board is to hear and decide appeals of orders, decisions, or determinations made by the Building Official relative to the application and interpretation of the International Building Code, International Residential Code for One and Two Family Dwellings, International Mechanical Code, International Fuel Gas Code, International Fire Code, International Energy Conservation Code, International Plumbing Code, and National Electric Code.
- 5.2 **Limitations and Authority.** An application for appeal shall be based on a claim that the true intent of these codes or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of these codes do not fully apply or an equally good or better form of construction is proposed. The Board shall not have authority to waive requirements of these codes.
- 5.3 **Application.** The Application for appeal shall be filed on a form obtained from the Building Codes department within 20 days after the notice was served

#### 6.0 Meetings

- 6.1 **Notice of Meetings.** The Board shall meet upon notice from the chairperson, within 10 days from the filing of an appeal or at stated periodic meetings. Notice of the meetings to the public must comply with the Texas Open Meetings Act.
- 6.2 **Open Hearing.** All hearings before the Board shall be open to the public and the conduct of the meeting must comply with the Texas Open Meetings Act. The appellant, the appellant's representative, the Building Official, and any person whose interests are affected shall be given an opportunity to be heard.
- 6.3 **Procedure.** The Board shall adopt and make available to the public through the secretary procedures under which a hearing will be conducted. The procedure shall not require compliance with strict rules of evidence, but shall mandate that only relevant information be received.
- 6.4 **Postponed hearing.** When three members are not present to hear an appeal, either the appellant or the appellant's representative shall have the right to request a postponement of the hearing.

## **7.0 Decisions**

7.1 **Board decision.** The Board shall modify or reserve the decision of the Building Official by a concurring vote of two-thirds of its members.

7.2 **Resolution.** The decision of an appeal of the Board shall be by resolution. Certified copies shall be furnished to the appellant and to the Building Official by the Board secretary.

7.3 **Administration.** The Building Official shall take immediate action in accordance with the decision of the Board.

## **8.0 Quorum**

8.1 A quorum shall consist of three (3) members.

8.2 No matters may be handled without the presence of a quorum.

8.3 All votes shall be by a majority of members present, except as otherwise stated in these rules of procedure or State law.

## **9.0 Agendas**

9.1 Meeting agendas shall be prepared by the Building Official or his/her designee for each Board of Appeals meeting. A copy of the agenda shall be posted at City Hall as required by law for a period of seventy-two (72) hours prior to the meeting.

9.2 All meetings shall follow, as closely as possible, the posted agenda.

9.3 Agendas may be amended by the Chairperson as to order of items, during the called meeting, but not as to content.

## **10.0 Minutes of Meetings**

10.1 Minutes, paper and voice recordings, of all regular and special meetings shall be kept by the Board of Appeals Secretary and are subject to amendment and ratification by the Board at a subsequent meeting.

10.2 The minutes of the Boards proceeding shall be "record minutes" showing the overall vote, or if absent or failing to vote, shall reflect that fact.

10.3 The Chairperson will sign minutes approved by the Board.

## **11.0 Special Meetings**

11.1 When needed, special meetings may be called by the Chairperson, at the request of two (2) or more members and, shall be scheduled by the Building Official.

11.2 Special meetings must be posted in accordance with the open meetings act.

## **12.0 Addressing the Board**

12.1 Persons desiring to address the Board shall enter their name on a "Request to Speak" sheet supplied by the Board of Appeals.

12.2 The Board of Appeals Secretary will provide the "Request to Speak" sheet to the Chairperson.

12.3 Persons who note on the sheet their desire to address the Board will be called to the podium by the Chairperson at the appropriate time and will follow the guidelines below when addressing the Board:

- A. Approach the podium, state their name and address and whether or not they are representing a person or organization;
- B. Speak so that all present in the room may hear clearly;
- C. Address all statements and questions to the Chairperson;
- D. Be courteous in language and deportment; and
- E. Limit their comments to 5 minutes.

12.4 The Chairperson may interrupt an individual to redirect or terminate remarks when they are not relevant to the matter before the Board, or when the Chairperson determines the remarks to be out of order.

## **13.0 City Staff Responsibilities**

13.1 The Building Official or designee shall be responsible for providing the Board with the necessary professional, technical, and clerical services, among which shall be the following:

- A. Prepare and submit agenda, staff reports from various departments, and any special projects as directed by the Chairperson;
- B. Administrative duties;
- C. To the extent necessary, introduce and factually explain each item on the agenda;
- D. Coordinate the services of all staff and other sources of public information for and on behalf of the Board;
- E. Keep a true copy of all Board proceedings;
- F. Have custody and maintain all Board records;
- G. Attend to all official correspondence and communications to and of the Board.

## **14.0 Written Request Required**

14.1 Every appeal submitted for Board action shall be made in writing. Where appropriate, application forms are provided by the City. The appeal shall be filed on said forms, shall be accompanied by all prescribed fees, and shall be complete in all respects before being accepted for filing by the Building Official or his/her designee.

## **15.0 Conflict of Interest Rules**

- 15.1 Any member who concludes that he/she may have a conflict of interest on a matter before the Board shall:
- A. File an Affidavit of Interest stating the nature and extent of the conflict of interest in accordance with Local Government Code Chapter 171.004 with the Board Secretary, if required by law.
  - B. Disclose that fact and abstain from further participation in (e.g., voting on or discussing) the matter at hand.
- 15.2 Any member who concludes that he/she may have a substantial interest in a business entity or in real property, as defined in Local Government Code Chapter 171.002, shall follow Section 15.1 above
- 15.3 Any member found to have violated Sections 15.1 or 15.2 of these rules of procedures shall have their vote on the matter in question stricken from the record, and this fact shall be submitted to the City Council for further action.

## **16.0 Miscellaneous**

- 16.1 Abstaining from a vote is not allowed except as in accordance with Section 15.0 Conflict of Interest Rules.
- 16.2 All members of the Board are encouraged to obtain as much factual information on all cases as possible, including inspection of affected properties, from the Building Official or his/her designee.

## **17.0 File Retention**

- 17.1 All matters coming before the Board shall be filed in the City's records. In accordance with the city's adopted records retention schedule, applicable original papers of requests for appeal shall be retained as a part of the permanent record.

## **18.0 Public Record**

- 18.1 Official records and citizen appeals filed for Board consideration in regular or special meetings shall be on file in the Municipal Complex and by appointment, shall be open to public inspection during customary working hours.

## **19.0 Amendments**

- 19.1 This document may be amended, in whole or in part, by a majority vote of the Board present at a scheduled Board of Appeals meeting.