

ADAMS COUNTY BOARD OF ADJUSTMENT BYLAWS

1.000 Definitions

1.100 Applicant: That person or entity originally requesting action to be taken by the Adams County Board of Adjustment.

1.200 Board: Adams County Board of Adjustment.

1.300 Board Hearing: A public meeting of the Board as prescribed by C.R.S. § 30-28-117(4), as amended, to conduct business pursuant to duties set forth in the Adams County Development Standards and Regulations and any other duties prescribed by law or lawfully-enacted regulation.

1.400 Board Member: A person duly appointed by the Adams County Board of County Commissioners pursuant to C.R.S. § 30-28-117(1), as amended, to serve on the Board. Members consist of regular and alternate members.

1.500 Counsel: An attorney employed by Adams County and assigned by the County Attorney to assist the Board of Adjustment with legal matters concerning cases before the Board of Adjustment and litigation which may arise therefrom.

1.600 County: Adams County

1.700 Motion: A statement, by a Board Member, of proposed action to be taken by the Board.

1.701 Motion, Amendment to: A proposal by a Board Member, other than the maker of the motion, to amend the maker's motion. A "friendly" amendment may be offered, to which the maker and second of a motion may respond by voluntarily including the suggested amendment in the motion. A "formal" amendment requires a second apart from the second to the original motion, and the amendment must be voted upon prior to a vote on the original motion.

1.702 Motion, Second to: An acknowledgment by a Board Member, other than the initial maker of the motion, that a motion should be considered.

1.800 Public Testimony: Public input on Board agenda items during that portion of the Board Hearing reserved for such testimony.

1.900 Staff: Employees of Adams County assigned by their respective departments to assist the Board with professional expertise.

1.901 Staff Secretary: An employee of Adams County assigned to record public

transactions of the Board, transcribe the minutes of each public meeting, prepare for signature by the Board Secretary or Chair any paperwork necessary to the efficient and lawful transaction of business by the Board and perform such other duties as may be found in these Bylaws or which may be assigned by the Board.

1.1000 Study Session: A public meeting of the Board but at which no formal action is taken by the Board. Study Sessions may be included on a Board Hearing agenda or a special meeting may be called. No public testimony, statement by the applicant, or other evidence shall be taken or considered by the Board, and no policy, resolution, rule, regulation, or formal action shall be made or taken. The merits of pending applications shall not be discussed at Study Sessions. Board Members may inform the Staff of issues or information that may be of interest or concern to the Board and that are not specific to pending applications. The Study Session shall not be considered part of the Public Hearing record for the application.

1.1100 Vote: The types of votes as referenced in these Bylaws are as follows:

1.101 Concurring vote of 4 members of a 5-member board: means at least 4 votes of the members present and voting.

1.102 Majority of the entire membership: means a majority of the total number of the members of the Board without regard to absences, abstentions, or vacancies. If only three members are present (which is a quorum), then a 3-0 vote is required.

1.103 Majority vote: means more than half of the votes cast by persons entitled to vote. If three members are present (which is a quorum), then a 2-1 vote is a valid, majority vote of the Board.

1.104 Two-thirds of quorum present: means two-thirds of the votes of the members present (round up on the math). If four members are present, then at least 3 votes are required ($\frac{2}{3} \times 4 = 2.67$).

2.000 Administration

2.100 Jurisdiction:

2.101 The Board shall have jurisdiction to hear all it has, by resolution of the Adams County Board of County Commissioners pursuant to C.R.S. § 30-28-117(3), as amended, been designated to hear, together with those matters set forth in C.R.S. § 30-28-118, as amended. If a question arises as to whether or not the Board has jurisdiction to hear a matter, the Board shall vote upon whether to consider a matter, after consultation with Staff. The Board shall not hear matters that, in the opinion of the majority of the

Board Members present, constitute a rezoning.

2.200 Composition:

- 2.201 The Board is a body appointed by the Adams County Board of County Commissioners, consisting of five regular members and as many alternate members as the Board of County Commissioners may choose to appoint.
- 2.202 Alternate members shall attend Study Sessions and Board Hearings, and shall be designated by the Chair to serve as a voting member in the event any regular member is temporarily unable to act due to absence, illness, interest in a case before the Board, or other cause.
- 2.203 The Board of Adjustment may recommend, through written charges agreed upon by vote of a majority of the entire membership, that any Board Member be removed for cause by the Board of County Commissioners. Reasons for the recommended removal of a Board Member may include, without limitation: failure to attend three (3) consecutive, regular Board Hearings without good cause; failure to attend six (6) or more Study Sessions or Board Hearings in a calendar year; failing to abide by the rules of conduct of Board Members; or ceasing to be a resident of the County. A Board Member may also be recommended for removal if, because of personal, business, or professional ties, the Board Member has been rendered ineffective as a Board Member because the Board Member is unable to participate in decisions on a substantial share of the matters before the Board of Adjustment. Only the Board of Commissioners may remove a member for cause, upon written charges and after a public hearing.

2.300 Election of Officers:

- 2.301 The regular members of the Board shall annually elect from their membership a Chair, Vice-Chair and Secretary.
- 2.302 The annual election shall occur during the first Board Hearing, at which all regular members are present, following the annual reorganization by the Adams County Board of County Commissioners. A non-Board member shall convene and conduct this election until all officers are elected, at which time the newly-elected Chair shall conduct any further business to come before the Board.
- 2.303 Upon proper nomination and second by regular Board Members, a nomination for Chair shall be considered. A majority of the regular members present shall be required to elect a Chair. If more than one member is nominated for the same position, then the Board shall vote by

written ballot, which ballots are public records within the meaning of the Colorado Open Records Act. A candidate receiving a majority vote of the membership of the Board present at the meeting shall be declared elected and shall serve one year or until their successor shall take office. After a Chair is elected, the same procedure shall be followed to elect a Vice-Chair and a Secretary.

2.304 In the event that the duly-elected Chair becomes unable to complete the term of office, the Vice-Chair shall automatically assume the position of Chair until the completion of the term, and a new Vice-Chair shall be elected at the next regular meeting in accordance with the provisions of these Bylaws. In the event that a Vice-Chair or Secretary is unable to complete the term, an election shall be held at the next regular meeting to fill that vacancy. Said election shall be in accordance with the provisions of these Bylaws.

2.305 If neither the Chair, Vice-Chair, or Secretary is present, any member in attendance shall call the meeting to order, and the Board shall immediately elect by majority vote a Chair *Pro Tem* to preside at that meeting. Such office is terminated by the arrival of the Chair, Vice-Chair, or Secretary.

2.400 Duties of Officers:

2.401 Chair: It is the responsibility of the Chair to conduct Board Hearings in accordance with the Rules of Order adopted in these Bylaws and accepted principles of decorum. The Chair is a voting member of the Board and is accorded the same rights and privileges accorded other Board Members. The Chair shall decide all questions of order subject to appeal to the Board; the Chair shall declare all votes and preserve order and decorum.

2.402 Vice-Chair: In the event that the Chair is temporarily unable to act due to absence from Adams County, illness, personal interest in any other matter coming before the Board, or any other cause, the Vice Chair shall act in place of the Chair. In this instance, the Vice-Chair shall be accorded the same privileges and responsibilities as the Chair.

2.403 Secretary: The Secretary shall work with the Staff Secretary to ensure proper records are kept for the Board proceedings. The Secretary shall sign correspondence transmitted by the Board and any other papers requiring an official signature and perform other duties as may be found in these Bylaws.

2.500 Duties of Board Members:

2.501 In keeping with their role as stewards of the public interest, Board Members

shall not appear on behalf of the private interests of third parties before the Board or before the Board of County Commissioners on behalf of the private interests of third parties on matters within the purview of the Board. Nothing herein shall be construed to prohibit any Board Member from representing his/her own personal interest by appearing before the Board on any such agenda item. In that instance, the Board member shall move themselves to the area of the room occupied by the general public and shall not return to their regular seat as a member of the Board until deliberation and action on the agenda item is completed.

2.502 Every voting member of the Board who is in attendance when a question is put to vote shall, unless excluded by interest, give their vote, unless the Board for special reasons (*e.g.*, conflict of interest, bias) shall excuse the member.

2.600 Amendments of the Bylaws:

2.601 These Bylaws may be amended by the following procedure:

1. Any proposed amendment shall be submitted for the Board's review no later than the Board Hearing prior to the Board Hearing at which the amendment will be voted upon.
2. Upon proper motion and second, an affirmative vote of the majority of the entire membership shall be required for the amendment to carry.

3.000 Conduct of Board Hearings

3.100 Schedule of Hearings

3.101 Board Hearings shall be held at the call of the Chair, or as regularly scheduled on the first and third Thursdays of each month. Regularly scheduled hearings may be canceled if there is no business to come before the Board.

3.102 The Chair shall set special hearings of the Board when so requested by an Applicant and upon payment by an Applicant of a special fee as set forth in the Adams County Development Standards and Regulations. The Board shall comply with all notice requirements set forth in the Colorado Revised Statutes and the Adams County Development Standards and Regulations in scheduling a special hearing.

3.103 Board Hearings shall begin as designated on the official public notice on the assigned day of the hearing and shall be held in the Adams County

Government Center Hearing Room unless otherwise posted.

3.200 Order of Business

3.201 The normal order of business for Board Hearings shall be as follows:

1. The Chair shall declare the meeting open and direct that a roll call be conducted by the Secretary. The names of all regular Board members shall be called, and the record shall reflect whether a member's absence is excused or unexcused. Absences of members from Board Hearings are excused in the event of a member's illness, disability or occupational conflict. Upon three consecutive unexcused absences, the Board, by majority vote, may request and recommend to the Board of County Commissioners that such a member be removed and replaced.
2. At the beginning of each Board Hearing and following the roll call, the Chair may deliver a set of opening remarks overviewing the procedures governing the meeting and detailing expectations for attendees.
3. The Chair shall call for consideration of the minutes of the previous hearing. The minutes may be adopted as written, corrected, or deferred by a majority vote of the Board.
4. The Chair shall call for approval of the proposed agenda for the meeting in session, and once the agenda is approved, no other matters shall be considered by the Board during that meeting.
5. The Chair shall conduct Board business as presented on the approved agenda for each meeting.
6. For each Public Hearing item on the agenda, the Chair shall allow testimony or input from the applicant, any members of the public present, Staff, and Board Members. No person participating in any Board Hearing shall participate until recognized by the Chair.

3.202 The Staff Secretary shall prepare for each meeting a packet containing a preliminary agenda and supporting material that, absent special circumstances, will be provided to Board Members and Staff at least five (5) days prior to each Board Hearing. Additions or deletions to that agenda may be made by the Board or Staff prior to each Board Hearing.

3.300 Public Testimony at Board Hearings.

- 3.301 Members of the public addressing the Board shall generally be limited in speaking to three (3) minutes. At the Board's discretion, additional time may be granted. In the interests of an orderly public hearing, all persons speaking shall seek recognition from the Chair and shall not speak directly to Board Members, Staff or other members of the public except as the Chair may direct. Board Members and Staff shall also seek recognition from the Chair before speaking to other persons. All speakers and those in attendance should conduct themselves in a non-disruptive manner. Cheering, snapping, clapping and other disruptions are not allowed during or upon completion of any participant's comment.

4.000 General Rules of Order

- 4.100 The following general rules of order apply to the conduct of business at all Board Hearings:
- 4.101 A quorum shall consist of three Board Members, and shall be required to formally act on agenda items except as specified elsewhere in statute, the Adams County Development Standards and Regulations, or these Bylaws.
- 4.102 Each Board Member shall be entitled to only one vote on any matters before the Board. Voting shall be by roll call on all land use applications and administrative appeals. A record of the roll call vote shall be kept as part of the record. Other matters such as adoption of the agenda, approval of meeting minutes, and motions for a recess or to adjourn may first be put to a voice vote, where the Chair asks those in favor to respond "Aye," and then asks those opposed to respond "No," and then announces the result. At that time, any Board Member may request a roll call vote, except on a unanimous vote.
- 4.103 A motion before the Board may be made only by members of the Board. Any motion made must be seconded by a member of the Board other than the maker of the motion prior to the vote on that motion.

After a motion and second, the Chair shall restate the motion and ask for discussion from Board Members.

If a question of the applicant or other attendee arises after the close of the public testimony and during Board deliberations, the public hearing may, by affirmative vote of the Board, be reopened for the limited purpose of (i) obtaining a response to the question, and (ii) allowing any public comment on the colloquy between the Board member and the person who was asked

to speak by the Board, but any such vote to reopen the public hearing for a limited purpose shall not serve to reopen the public hearing generally.

After all interested Board Members have had an opportunity to speak, the Chair shall instruct the Secretary to conduct a roll call vote of all Board Members. Board Members voting in favor shall so signify by saying “aye” when their name is called. Board Members opposed shall so signify by saying “nay” When their name is called. Board Members wishing to abstain shall signify by so stating, and shall then state the reason for their abstention.

When the voting on a motion consists of an equal number of affirmative and negative votes (*i.e.*, a tie vote), the motion shall be defeated. An application shall be deemed denied if the Board’s final action results in a tie vote.

- 4.104 Conflicts of Interest. Any Board Member who actually or potentially has a conflict of interest with regard to any business before the Board or whose participation would otherwise violate the appearance of fairness, shall disqualify himself or herself from voting or participating in the discussion and deliberation in any motion concerning such business. When the Board Member has so disqualified him or herself, the member shall move themselves to the area of the room occupied by the general public and shall not return to their regular seat as a member of the Board until deliberation and action on the agenda item is completed. If an alternate is available, the alternate may be seated for the purpose of hearing that matter only.

A potential conflict of interest or the appearance of impropriety exists when a Board Member is involved in or has a direct or indirect interest, financial or otherwise, or is engaged in any business or transaction or professional activity, or incurs any obligation of any nature of an entity that is participating in, is proposing to participate in, or is in competition with, the business under consideration.

- 4.105 Ex Parte Communications. To be considered by the Board, all information, such as correspondence, emails, data, reports, positions for and against and the like, shall be submitted so as to be available to all Board members, the staff and the public at an open public meeting. This way all parties are fully apprised of the facts and no one gains an advantage through private communications or conversations. Private communications and conversations outside of public meetings undermine this open exchange and fair play. If one or more Board Members are contacted privately by an individual, such as an applicant or a person potentially affected by a proposed development, outside of an open public

meeting, they must respond by saying that for information to be considered by the Board it must be submitted so as to be available to all interested persons at an open public meeting. In other words, contact between and among Board Members and/or other interested parties privately and outside the context of an open public meeting is not allowed. In the event such an *ex parte* communication occurs, the Board Member(s) shall disclose on the record the fact that the communication took place and share any substantive information that s/he may have received during the course of the contact. The Board Member should indicate on the record whether or not the communication left them unable to base the decision solely on the evidence to be presented at the public meeting, no longer unbiased. If they are unable or unwilling to so indicate, the Board member must recuse themselves from the proceedings.

- 4.106 Upon proper motion, second, and majority affirmative vote, any request before the Board may be granted, denied or continued. The Board must act on each matter before it by either granting, denying, or continuing that matter by a majority affirmative vote.
- 4.107 Reconsideration. An applicant, Staff member, Board member or person who participated in the initial Board Public Hearing on an application may request reconsideration following Board action on any matter.

To request reconsideration, the requester must submit a written request to the Staff, outlining the reason(s) for the reconsideration request. Such request must be submitted to Staff within ten (10) days of the date of the Board's decision sought to be reconsidered. Staff will then place the request on the agenda for the next available Board meeting, and the Board may consider the request. The Board may, but is not required, to allow public testimony at the discussion of the request for reconsideration. A motion to reconsider shall be in order only if moved by a member voting in the majority on the item requested to be reconsidered. If no motion to reconsider is so made or if the motion does not obtain a second, then the request to reconsider is denied. The request for reconsideration does not toll the applicable timelines contained in C.R.C.P. 106, unless the request for reconsideration is granted.

If a motion to reconsider is granted, proper notice shall be provided, and the Board may conduct additional hearings and receive additional evidence and testimony or it may simply re-deliberate based on the existing record, but all such further proceedings shall be scheduled for a future Board meeting. Under no circumstances shall the Board take action after a request for reconsideration has been granted without proper notice to all interested parties.

- 4.108 Any question or issue as to the proper procedure for conducting business at any Board hearing which is not resolved by the general rules set forth in these Bylaws shall be resolved by the Chair, subject to the vote of the full Board.
- 4.109 In all administrative appeals to the Board where the concurring vote of four members of the Board is necessary to reverse any order, requirement, decision, or determination, a full five-member Board must be present and eligible to vote on the matter prior to the Board hearing the case. If a five-member board is not available, the matter shall be continued to the next regularly scheduled Board meeting.
- 4.110 The Board and its counsel may meet in executive session as authorized by C.R.S. § 24-6-402(4) as amended, upon the affirmative vote of two-thirds of the quorum present. Prior to holding any executive session, the Board shall announce to the public the specific statutory provision authorizing the executive session and identify the particular matter to be discussed without compromising the purpose for which the executive session is authorized. Except as otherwise provided by law relating to the recording of attorney-client privileged communications, the Board shall make an electronic recording of the executive session discussion. Any electronic recording of the executive session shall be kept separate from written minutes or electronic recordings of public hearings, and shall be retained for ninety (90) days following the executive session or such other time period as required by law. All electronic recordings of executive sessions shall be confidential and may not be disclosed for any purpose other than by order of court.
- 4.111 The Board may seek guidance from Counsel at any time on matters substantive and/or procedural.
- 4.112 Site Visits. Outside of a duly advertised site visit by the whole Board, individual Board Members are prohibited from visiting the site of applications. Staff members may familiarize themselves with the site and the surrounding neighborhood and prepare visual or other representations of the site and neighborhood to be made available to the Board at the same time they are made available to the applicant and the general public.
- 5.000 Appeal from an Administrative Decision: When an appeal before the Board is requested pursuant to Section 2-02-17 of the Adams County Development Standards and Regulations (the “Regulations”), the following procedures shall apply except as my otherwise be required by State law or the Regulations:
- 5.100 Petitions for Hearing: The Board’s authority concerning appeals of administrative determinations is limited to allegations of error by an

administrative official in the application or enforcement of the Regulations. All petitions for appeal shall clearly state grounds for the appeal, the Board's specific authority under Section 1-02-03-12-03 of the Regulations, as may be amended, to hear the issue, and a statement of the specific section or sections of the Regulations that is/are at issue. The Petitioner in an appeal shall have the burden to show that the Department erred in making the decision or interpretation being appealed. An application for appeal of an administrative decision shall be accompanied by the Petitioner's application fee. No application for appeal of an administrative decision will be accepted without the Petitioner's application fee.

5.200 Pre-Hearing Matters:

1. Documents/Evidence: At least twenty-five (25) days prior to the hearing, the Department shall provide, to the Petitioner, copies of all documents/evidence (*i.e.*, staff report and Petitioner's completed application) anticipated to be submitted at the hearing. The Petitioner shall submit any supplemental documents/evidence to be considered at the hearing to the Department no later than fifteen (15) days prior to the hearing. The Department shall forward all documents/evidence, including the Petitioner's supplemental information and any supplemental Department information to the Board members and the Petitioner no later than ten (10) days prior the hearing.
2. Representation: At least fifteen (15) days prior to the hearing, the Petitioner shall provide the Board and the opposing party/Department with information concerning whether they will be represented at the hearing by counsel, a consultant, or other spokesperson. The petitioner shall disclose who their representative is by providing the representative's name, address, phone number, and the capacity of their representation.

5.300 Hearing Procedures:

1. Time: Each party shall be allotted one-half hour to present their case. If the hearing proceeds beyond the time allotted, the Board, at its discretion, may either proceed with the hearing for such time as the Board retains a quorum, or continue the matter to a date certain.
2. Order of Presentation: The order of presentation at the hearing shall be as follows:
 - a. Counsel for the Board shall introduce the appeal,

providing an overview of the issue(s) being appealed.

- b. The Petitioner will present their case. Petitioner and/or their representative shall be subject to questions by the Board.
 - c. The Department will present its case. The Department and/or its representative shall be subject to questions by the Board.
 - d. At any time during the parties' presentations, the Board may ask questions, or have the parties clarify their statements.
3. Rules of Evidence: The Board shall not be bound by technical rules of evidence usually employed in legal proceedings, but may consider any evidence it deems relevant.
4. Decisions: Following the hearing, pursuant to Section 4.109 of these Bylaws, the Board shall vote to ratify or reverse the order, requirement, decision, or determination at issue.

Last amended: May 1, 2025