

**CITY OF CHANDLER
BOARD OF ADJUSTMENT
RULES OF PROCEDURE**

I. AUTHORITY:

These Rules of Procedure are adopted under the authority of Section 35-2502 of the Chandler City Code and Arizona Revised Statutes, Section 9-462.06, both as amended from time to time.

II. ORGANIZATION:

A. Officers and Staff:

1. The Board shall elect annually a Chair and Vice Chair from among the appointed members at the first meeting held after the first of May.
 - a) The term of the Chair and Vice Chair shall be one year.
 - b) The Vice Chair shall act as Chair in the Chair's absence. In the absence of both the Chair and Vice Chair, the duty to act as Chair shall be rotated based on the alphabetical order of the members' last names.
 - c) Any vacancy for Chair or Vice Chair as may occur for any reason shall be filled for the remainder of the term, from the Board membership by majority vote of the Board at the next meeting where a full Board is present .
2. The Chair shall preside at all meetings and hearings of the Board, decide all points of order and procedure, and perform any duties required by law, ordinance, or these bylaws.
 - a) The Chair shall have the right to vote on all matters before the Board, and shall also have the right to make or second motions in the absence of a motion, or a second, made by a member.
 - b) The Chair may administer oaths.
3. The City of Chandler Director of Planning and Development/ designee shall serve the Board as Secretary. The City of Chandler Planning Staff shall furnish professional and technical advice to the Board.
4. The Chandler City Attorney/designee shall have the responsibility of furnishing such legal advice on all points of order, procedure, or other matters as may be requested from time to time.

III. MEETINGS:

A. Meetings:

1. Meetings shall be held the second Wednesday of each month at 6:00 p.m. in City Council Chambers of the Chandler Library, second floor, 22 S. Delaware Street, Chandler, unless advertised differently.
2. Meetings of the Board shall be open to the public and the minutes of its proceedings, showing the vote of each member and records of its examinations and other official actions, shall be filed in the Planning Department as a public record. For any matter under consideration, any person may submit written comments and if attending in person, may speak to the issue upon being recognized by the Chair and stating his or her name and address, and the names of any persons on whose behalf they are appearing.

B. Quorum:

A majority of the members of the Board shall constitute a quorum for transaction of business at any meeting. No action shall be taken at any meeting in the absence of a quorum, except to adjourn the meeting to a subsequent date.

C. Vote:

1. All votes shall be taken by roll call vote. The minutes of the proceedings shall indicate the vote of each member on every matter acted upon, and shall indicate any absence or failure to vote.
2. Each member attending shall be entitled to one (1) vote. No member shall be excused from voting except on matters involving the consideration of his own official conduct, or such matters where the member has a conflict of interest.
3. A Board member who is absent from any portion of a hearing conducted by the Board may vote on the matter at the time it is acted upon by the Board, provided that he or she has listened to the tape recording made or reviewed the minutes of, any portion of the hearing from which he or she was absent, and provided, also, that the Board member states for the record prior to voting that he or she deems themselves to be familiar with the record. A member who misses only the presentation of the staff report may vote on that matter at the time it is acted upon by the Board, provided that he or she states for the record that they have read the staff report and is familiar with it.
4. The concurring vote of at least four (4) members of the Board shall be necessary to grant any variance, to reverse any order or decision of the Zoning Administrator or to decide in favor of the person aggrieved on any matter.

5. A member shall disqualify himself or herself and abstain from participating in the consideration and from voting whenever s/he has, or may have, a conflict of interest in the case under consideration, as described and provided by the Arizona Revised Statutes (A.R.S. 38-501, et. seq.) and the Chandler City Code (Sec. 2-3, and successors). If a member disqualifies himself/herself, or cannot act in a particular case, s/he shall notify the Chair at the time the item is called.

D. Field Trips:

The Board may take field trips to view property or for other purposes relevant to a public hearing or other matter under consideration. All Board field trips shall be taken as part of a regular or special meeting, and all interested persons shall be afforded the opportunity to be present to view the property and hear any reports or comments. A record of the field trips shall be entered into the minutes, so that the record shall indicate that the field trip was taken into consideration as evidence.

IV. ORDERS OF BUSINESS

A. Parliamentary Procedure:

1. The Chair shall call the Board to order and the Secretary shall record the members present and absent. The Chair may call each matter of business in the order listed on the agenda and shall announce the number and title of the item as listed on the agenda.
2. The Chair shall conduct meetings pursuant to Robert's Rules of Order unless such rules are suspended by majority vote of the Board. The Chair shall direct questions to the applicant or any person speaking, in order to bring out all relevant facts, circumstances, and conditions affecting the matter being considered, and then call for questions from other members of the Board and from City Staff.

B. Number of Members Present:

In the event there are less than seven Board members present, the Chair, at the beginning of the meeting, shall make an announcement similar to the following:

"Any action by the Board requires the affirmative votes of at least four Board members and not a simple majority of those present. Since there are less than seven members present at this meeting, any applicant who desires his or her application to be continued to the next meeting of the Board should make that request at this time. The Board will consider requests for continuances prior to other items on the agenda."

The Chair will then call for all applicants desiring their applications to be continued to step forward and make their requests. Those applications should be continued to the next meeting unless the Board finds exigent circumstances are present which necessitate holding the hearing at that time.

C. Hearing Conduct:

1. The hearing need not be conducted according to technical, judicial Rules of Evidence. Any relevant evidence may be considered if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs.

a) The Chair may exclude irrelevant or redundant testimony and may make such other rulings as may be necessary for the orderly conduct of the proceedings, while ensuring basic fairness and a full airing of the issues involved. Evidentiary objections shall be waived unless made timely to the hearing.

b) Witnesses shall not ordinarily be sworn unless a specific request therefore is made and granted prior to the taking of any testimony. The Chair may, upon request of any member of the hearing body, require that all witnesses be sworn before giving testimony in a particular matter. Witnesses may be sworn as a group prior to the presentation of the staff report.

2. In order to expedite the conduct of the hearing, the Chair may limit the amount of time which each person may use in addressing the hearing body. The Chair may also limit the speakers or testimony upon a particular issue in order to avoid repetitious and cumulative evidence. The applicant, shall be given sufficient time to present his request and all supporting evidence and information.

3. The burden of proof of all legal prerequisites to the granting of the relief or action sought shall be upon the party requesting such relief or action.

4. When the applicant or a representative of the applicant fails to appear the Board may consider the application to be withdrawn unless the applicant has requested in writing that the Board act without him or her being present at the hearing.

5. General Hearing Procedure:

a) Members of the Board may ask questions "through the Chair" at any point during testimony.

b) Any member of the Board, through the Chair, may request any party to the case to reappear.

c) Each person who appears shall be required to state his/her name and address, and indicate whether he/she is an abutter, a party to the case, or an agent or counsel of a party to the case.

d) Any party to the case who desires to ask a question of another party must do so through the Chairperson.

6. The typical hearing process is as follows:

Chair will:

- Call the item,
- Call for the staff presentation,
- Allow questions to staff by Board members, "through the chair."
- Call for Neighborhood services presentation, (generally they have visited the site and have more detailed information concerning the conditions and appearance of both the site and the neighborhood surrounding the site.)
 - Formally open the public hearing by stating: "The public hearing is now open."
 - Allow the applicant or his/her designated representative to present the application or appeal.
 - Allow those appearing in favor of the application or appeal to speak.
 - Allow those in opposition to speak.
 - Allow the applicant to speak in rebuttal. If there was no testimony opposing the application, the Chair shall make an announce similar to the following: "There having been no testimony or evidence offered in opposition to the application after applicant's presentation, there is no rebuttal."
 - Formally close the public hearing and return the matter to the Board for discussion and action.

V. ACTION BY THE BOARD.

1. In taking action on any application or other matter, the Board may grant approval, grant approval with conditions, modify the request so as to make it more restrictive, or deny the item altogether. In these actions, the Board shall be guided by the provisions of the City Code and state law.
2. When a motion to grant a variance or in favor of any application or other matter fails to receive an affirmative vote of four members, it shall be entered into the minutes as a vote to deny the application being considered.
3. When a motion for denial of any application or other matter fails to receive an affirmative vote, it shall be entered in the minutes as a vote to deny the application being considered.
4. In the event that there is no motion, or the motion dies for lack of a second, it shall be entered into the minutes as a denial of the application being considered.
5. Nothing herein shall prevent any member from making a subsequent motion on any matter where a prior motion is not approved by the required vote of members.
6. A motion to adopt or approve staff recommendations or simply to approve the action under consideration shall, unless otherwise particularly specified, be deemed to include adoption of all proposed findings in the staff report on file in the matter. In the event there are no proposed findings in the staff report to support

the Board's action, the motion will be deemed to include the findings discussed by the Board, contained in the application or those required by the City Code and state law.

7. When a variance is approved by the Board, staff shall prepare a written variance, listing any time limits, restrictions or other conditions, for signature by the Chair after the minutes reflecting the Board's action on that item are approved by the Board. A copy of this written variance shall be provided to the applicant and the original kept in the Board's official records.

VI. MOTION FOR RECONSIDERATION:

1. The Purpose of reconsidering a vote is to permit correction of hasty, ill-advised, or erroneous action, or to take into account new information or a changed situation that has developed since the taking of the vote.

2. Within ten (10) days after the Board's action any interested person may file a request for reconsideration with the Zoning Administrator. A request for reconsideration must list the reasons why reconsideration is being requested including any new evidence or other information sought to be presented to the Board.

3. A copy of the Request for Reconsideration shall be mailed to each Board member. The Zoning Administrator shall place a Request for Reconsideration on the agenda of the next meeting, only if so directed by a Board member who is authorized to make a Motion for Reconsideration by these Rules of Procedure. If no such Board Member directs the item to be placed on the agenda of the next meeting, the Request for Reconsideration is deemed denied.

4. Only a Board member who voted with the prevailing side may make a Motion for Reconsideration. Any Board member may second the motion. The concurring vote of at least four members of the Board is required to approve a Motion for Reconsideration.

5. If the Motion for Reconsideration is approved, the original motion is again before the Board in the same position it was before it previous vote was taken. The Chair will call for any new information from staff and Neighborhood Services, reopen the public hearing, hear any new evidence or information from the applicant and/or members of the public, close the public hearing and again put the question to the Board. The same motion which was originally passed and for which reconsideration was approved is to be voted on at this time. Only if that original motion fails would a member be able to make a new or different motion. This does not preclude a motion to amend that original motion.

6. If the Motion for Reconsideration is not approved, the previous action of the Board stands.

VII. OFFICIAL RECORDS:

1. Retention of Files: The official records of the Board shall include these Rules of Procedure, minutes of meetings, and approved variances, which shall be deposited with the Planning Department and which shall be available for public inspection during customary office hours. All applications and other matters coming before the Board shall be filed in the Planning Department in accordance with that Department's general file system. Original papers of all applications and other matters shall be retained for not less than five (5) years after date of application. Thereafter, such matters may be microfilmed, along with other special matters as the Secretary deems essential, for permanent record.

2. Recording of Meetings: All public meetings of the Board may be recorded by electronic device. Any person desiring to have a meeting recorded by an electronic device or by a stenographic reporter, at his or her own expense, may do so, provided that he or she consults the Board's secretary to arrange facilities for such recording prior to the commencement of the meeting, or does not otherwise disrupt the proceedings.

VIII. AMENDMENTS:

These Rules of Procedure may be amended by majority vote at any meeting of the Board provided that notice of said proposed amendment is given to each member in writing at least five (5) days prior to said meeting. Such amendment shall be subject to ratification by the City Council and, if so approved, shall become effective at the next regular meeting of the Board.