

## **NUISANCE BOARD OF APPEALS RULES OF PROCEDURE**

The owner or occupant of property who has been served with a notice of violation pursuant to Laramie Municipal Code Chapter 8.32 may, within fifteen days from the date of service as defined in Section 8.32.210 may submit a written appeal to the planning division for a hearing before the Nuisance Board of Appeals on the question of whether a nuisance exists. If no appeal is filed within that period, the appeal shall be deemed waived. Pursuant to 8.32.230 the cost of an abatement may be appealed if written notice is provided within 10 days of the mailing of the statement of charges.

These Rules of Procedure are promulgated pursuant to Laramie Municipal Code Section 8.32.210 which states The Board of Adjustment also stands in as The Nuisance Board of Appeals.

### **I. Name**

In accordance with LMC Section 8.32.210 the name of this board is the Nuisance Board of Appeals. The Board of Adjustment serves as the Nuisance Board of Appeals per LMC Section 8.23.210.A. The Board of Adjustment serves as the Planning Commission per LMC 15.04.0404 and Wyoming Statute 15-1-605.

### **II. Establishment and membership**

The Nuisance Board of Appeals is established per the Board of Adjustment's Rules of Procedure section II.

### **III. Staff Attendance at Meetings**

The City Planning Manager and the Code Enforcement Inspector, or his designee, should attend all meetings of the Nuisance Board of Appeals to provide necessary administrative liaison and assistance as required by the Nuisance Board of Appeals. The City Engineer, or his designee, is requested to be available for all meetings of the Nuisance Board of Appeals when a checklist or report prepared by the City Engineer is to be considered by the Nuisance Board of Appeals, and upon request from the Board of Adjustment.

### **IV. Term of Appointment**

The Nuisance Board of Appeal's term of appointment shall be set per the Board of Adjustment's Rules of Procedure Section IV.

### **V. Appointment of Members**

The Nuisance Board of Appeals shall appoint it's member per the Board of Adjustment's Rules of Procedure section V.

**VI. Removal of Nuisance Board of Appeals Members**

The City Council may remove members from the Nuisance Board of Appeals per the standards set by the Planning Commission Rules of Procedure Section VI and Laramie Municipal Code Section 2.36.050.

**VII. Officers**

In accordance with Laramie Municipal Code Section 2.36.040 the officers of the Planning Commission are a chair (president) and a vice-chair (vice president) and shall also serve as the officers for the Board of Adjustment, and hence also for the Nuisance Board of Appeals.

**VIII. Election of Officers**

The Nuisance Board of Appeal's officers shall be elected through the process set through the Planning Commission's Rules of Procedure section VIII.

**IX. Duties of Officers**

**A. Chair**

The Chair shall preside at all regular and special meetings unless incapacitated or unable to attend. The Chair may move, second and debate from the chair subject only to limitations placed on all members and shall not be deprived of rights and privileges of a member.

**B. Vice-Chair**

The Vice-Chair shall perform the duties or responsibilities of the Chair in the absence or disability of the Chair.

**C. Temporary Chair**

In the absence of the Chair and Vice-Chair, if a quorum is present it shall elect a Temporary Chair to serve until the Chair or Vice-Chair appears. The Temporary Chair shall perform the duties of the Chair in the absence or disability of the Chair and Vice-Chair.

**X. Scheduling of Meetings**

The Nuisance Board of Appeals shall hold a regular meeting twice each month at 4:30 p.m. on a schedule set by the Nuisance Board of Appeals from time to time. The regular meeting time and place may be changed by the Nuisance Board of Appeals. Generally, the Nuisance Board of Appeals will meet on the second and fourth Mondays of each month at 4:30 PM. A regular meeting may be canceled if no business is scheduled for discussion. All meetings of the Nuisance Board of Appeals shall be open to the public.

Any meeting date which falls on a holiday, or any meeting canceled because of lack of a

quorum shall be rescheduled by the Planning Commission on behalf of the Nuisance Board of Appeals. A regular meeting may be canceled if no business is scheduled for discussion.

## **XII. Quorum and Vote**

To transact official business, a quorum must be present. A concurring vote of a majority of the Board is required to approve official business. The chair shall vote as a member of the Board. Approval of a matter before the Board requires the affirmative vote of four members of the Board.

Proxies cannot be used for any purpose.

A member may not vote on a project, which has been heard at more than one meeting, unless the member was present at all meetings in which the project was considered or the member has listened to the tape recording of the meeting(s).

A member who is present shall vote on a matter unless the member articulates a conflict of interest or other disqualification prior to consideration of the item.

## **XIII. Notice and Minutes of Meetings**

In addition to any specific notice for individual items required by applicable statute, ordinance, resolution, or regulation, the Planning Commission and Nuisance Board of Appeals shall publish the agenda of its regular meetings.

All Nuisance Board of Appeals meetings are open to the public. The Nuisance Board of Appeals shall keep minutes of its proceedings showing the vote of each member upon each question or if the member was absent or failed to vote. The Nuisance Board of Appeals shall also keep records of its examinations and other official actions. All minutes are public records.

## **XIV. Site Visits**

Site visits may be scheduled after a project has been submitted for review but before the Nuisance Board of Appeals meeting. The Nuisance Board of Appeals, not the applicant, is responsible for scheduling site visits for the Nuisance Board of Appeals. Individual members may visit sites on their own with or without the Planning Manager present provided no applicant or other representatives of the applicant are present. If any relevant information is obtained and considered by members as a result of any site visit, the information shall be disclosed before the vote on any decision so that all participants at the meeting may be informed of the facts that influence the disposition of the case,

and have an opportunity to respond.

## **XVII. Conduct of Meeting**

The business of all regular meetings shall be transacted within the regular Planning Commission Meeting in the following order unless by vote of majority of the members present the rules are suspended and the order changed:

1. Call to Order/Roll Call
2. Approval of Agenda/Minutes
  - 2.A Changes And Approval of Agenda
  - 2.B Planning Commission Meeting Minutes
3. Citizen Comments - Non Agenda Related Topics – No Action Can Be Taken
4. Planning Commission And Staff Reports And Comments
5. Disclosures – Ex-Parte Communications; Potential Conflicts Of Interest
6. Current Planning Projects
  - 6.A Old Business
  - 6.B New Business
7. Long Range Planning Projects
8. Variances (Board of Adjustment)
9. Appeals (Nuisance Board of Appeals)
10. Solar Access Permit (Solar Board of Review)
11. Adjournment

## **XVIII. Process of Appeals Hearing**

Where an individual has filed an appeal to be acted upon by the Nuisance Board of Appeals, the appeal shall be considered at a public meeting. The Nuisance Board of Appeals shall follow procedures in Laramie Municipal Code Section 8.32.210 if acting on an appeal ruling on the existence of a nuisance.

- A. The owner or occupant of property who has been served with a notice of violation pursuant to this chapter may, within fifteen days from the date of service as defined in Section 8.32.190(a)(3), may submit a written demand to the planning division for a hearing before the Nuisance Board of Appeals on the question of whether a nuisance exists. If no appeal is filed within that period, the appeal shall be deemed waived.
- B. Upon filing of a written notice of appeal, the matter shall be placed on the agenda of the next regularly scheduled meeting of the Nuisance Board of Appeals no later than thirty calendar days after the notice of appeal has been filed. The Nuisance Board of Appeals may hear the appeal at its regular meeting or set a special hearing date, at its discretion.

- C. The hearing shall be scheduled and conducted by the Nuisance Board of Appeals pursuant to the procedures contained within Municipal Code Section 1.20.010 et seq., including maintaining an audio or video with audio transcript of the proceeding.
- D. The alleged violator shall be given the opportunity to appear, with counsel if desired, and may present evidence and witnesses at the hearing.
  - a. The burden shall be on the city to prove the existence of a nuisance or of the cost of the abatement by substantial evidence.
  - b. All relevant and reliable evidence shall be admitted by the Nuisance Board of Appeals.
- E. After hearing the evidence and argument in the matter, the Nuisance Board of Appeals shall make a finding as to the existence of a nuisance, and may make findings as to the abatement procedure proposed by the city or the alleged violator, the costs to be allocated to the parties if such has been abated by the city prior to the hearing and the time in which such abatement will be completed by the alleged violator, if not completed by the time of the hearing. If a nuisance is found to exist, the time for completion allowed by the Nuisance Board of Appeals shall not exceed sixty days from the date of the final order.

The Nuisance Board of Appeals shall follow Laramie Municipal Code Section 8.32.230 when ruling on the cost of an abatement.

- A. After compilation of the costs and charges incurred by the city for the abatement of the public nuisance, the city shall mail by certified mail to the owner of the property a statement of the outstanding balance owed by the owner to the city for the nuisance abatement. Such balance shall be due and owing not more than thirty days following the mailing of the notice. The statement shall also include a statement of the rights of the owner to appeal such amounts as have been expended on the abatement of the nuisance within ten business days of the date of mailing.
- B. If the owner of the property wishes to contest the amount that was expended on the nuisance abatement, the owner may file a written notice of appeal, in person or by certified mail, to the planning division for a hearing before the Nuisance Board of Appeals within ten business days from the date of mailing of the statement of charges. If no appeal is filed within that period, the appeal shall be deemed waived and the statement amount shall be immediately due and owing to the city.

- C. Upon filing of a written notice of an appeal of the amount owed, the matter shall be placed on the agenda of the next regularly scheduled meeting of the Nuisance Board of Appeals no later than thirty calendar days after the notice of appeal has been filed. The Nuisance Board of Appeals may hear the appeal at its regular meeting or set a special hearing date, at its discretion.
- D. If payment in full is not received by the city within ten business days from the time the statement became final, then such may be entered as a lien against the property and filed with Albany County Clerk of Record or may be filed with a collection agency.
- E. No entitlement for the property may be issued under Title 15 of Laramie Municipal Code unless all payments have been paid in full. An entitlement issued in violation of Title 15 is void.

**XIX. Conduct of Members**

Nuisance Board of Appeals members shall abide by the rules of conduct set forth below.

**A. Conflict of Interest:**

Members have the right and the obligation to vote on all questions before them and to participate in the business of the Nuisance Board of Appeals except when a conflict of interest exists, or if there is a perception of a conflict of interest.

**(1) Notification of conflict of interest:**

Whenever the Nuisance Board of Appeals is considering, or may consider a matter that raises a question of conflict of interest for a particular member, the member shall inform the Planning Division before the meeting. If, in the staff's opinion, there may be a conflict of interest, staff may ask City Attorney for an opinion. Members are responsible for determining when a conflict of interest exists. Members are also responsible for alerting the Chair before the meeting.

**(2) Conduct at meetings where a member has a conflict of interest:**

If any member has a conflict of interest with any particular item, the member shall notify the Nuisance Board of Appeals and the public in attendance of the conflict of interest. The member shall not participate in consideration of that item.

**B. Ex parte Contacts**

Ex-parte contacts are contacts between individuals seeking to influence a

decision on a Nuisance Board of Appeals matter outside the meeting forum. Examples include site visits, meetings with the applicant or applicant's representative, telephone calls, in person contact, email, letters or other forms of communication with anyone which may attempt to influence a member's opinion on a matter which will be subject to the member's vote.

It is the goal of the Nuisance Board of Appeals to make its decisions based on information equally available to all members, applicants, the public, and City Staff, because that allows all interested parties to respond to all information which could influence the Board of Appeal's decisions. This section should be interpreted in light of this goal.

From time to time, members may seek or receive information on matters before them other than through formal, public submissions. This could occur, for instance, when a member visits a site, or is contacted by an applicant, expert, or member of the public. If this happens, members shall 1) disclose in public any substantive information received or gleaned by them, and 2) in the case of information provided to them, urge the contacting party to provide that information to the Board of Appeals in person or in writing.

**XX. Open Meetings**

Meetings of the Nuisance Board of Appeals, including site visits, shall be open to the public except as provided by law.

**XXI. Open Records**

Information presented to the Nuisance Board of Appeals in carrying out its responsibilities, records of meetings, and any other material resulting from the conduct of its activities shall be kept on file in the City of Laramie's Planning Division Office, and shall be available for inspection by the public upon reasonable request except as provided by law.

**XXII. Amendments to the Rules of Procedure**

Any member of the Nuisance Board of Appeals or the Planning Division may propose amendments to the rules of procedure. An amendment must be approved by a majority of the entire membership after due notice and filed with the City Clerk to become effective.

**XXIII. Other Rules of Procedure**

The most recent edition of "Robert's Rules of Order" shall be the parliamentary rules of the Commission as required and shall be supplemental to and included as part of these rules.

**XXIV. Hearings**

Whenever the Nuisance Board of Appeals is authorized or required by statute or ordinance to hold a hearing, the hearing shall be conducted in the manner specified in Section XVIII above, substituting "hearing" for "meeting" and "testimony" for "comments." Any procedural matters not covered by Section XVIII shall be in accord with Chapter 1.20 of the Laramie Municipal Code.

Adopted \_\_\_\_\_, 2023.

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Chair

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Secretary