

RULES OF THE CITY OF CHEYENNE  
BOARD OF ADJUSTMENT

ADOPTED: September 18, 1997

RULES OF THE  
CITY OF CHEYENNE / BOARD OF ADJUSTMENT

LARAMIE COUNTY, WYOMING


I certify that the copy attached hereto is a true copy of the Rules of the City of Cheyenne / Board of Adjustment. These rules are promulgated under the authority of W.S. §15-1-605 through §15-1-608 and W.S. §16-3-101 through §16-3-115.

Prior to adoption by the Board, these rules were made available for public inspection on the 14th day of July, 1997.

These rules supersede all other Rules of the Board of Adjustment previously filed with the State of Wyoming and/or Laramie County, Wyoming.

These rules shall be effective upon the date of filing with the County Clerk for Laramie County and the Cheyenne City Clerk.

Signed the 18th day of September, 1997.



Noel Griffith, Chair  
City of Cheyenne Board of Adjustment

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# RULES OF THE CHEYENNE BOARD OF ADJUSTMENT

## CHAPTER I

### GENERAL PROVISIONS

Section 1. Statement of Purpose. As set forth in the Wyoming statutes on Zoning, W.S. §15-1-605 through §15-1-608 and W.S. §16-3-101 through §16-3-115, the Cheyenne Board of Adjustment, adopts these rules governing its procedures and powers. These rules also guide the conduct of official business and the election of officers.

Section 2. Definitions:

- a) "Board" means the Cheyenne Board of Adjustment.
- b) "Contested Case" means a proceeding in which legal rights, duties or privileges of a party are required by law to be determined by a hearing before the Board.
- c) "Development Office" means the Cheyenne-Laramie County Development Office or other office/department designated to perform the same or similar function by the City Administration.
- d) "Public Hearing" means a noncontested case hearing called to investigate a matter within the Board's jurisdiction.
- e) "Governing Body" means the Cheyenne City Council.
- f) "Party" means each person or agency named or admitted as a party.

## CHAPTER II

### OFFICERS AND THEIR DUTIES

Section 1. Officers. The officers of the Board shall consist of a chair, vice chair and secretary.

Section 2. Chair. The chair's duties generally include: presiding over and calling to order all regular and special meetings, announcing business to be conducted, providing for swift, orderly and pertinent discussion of questions arising during proceedings, and putting them to a vote, and authenticating all acts, orders and proceedings of the Board.

Section 3. Vice Chair. Upon the absence of the chair, the vice chair automatically becomes the presiding officer of the Board. In the absence of the chair or secretary, the vice chair is authorized to sign documents for the Board.

Section 4. Secretary. The secretary is responsible for: preparing an agenda, keeping the records and minutes of each meeting or hearing, calling roll when required, notifying members of committee appointments, furnishing committees with all documents referred to them, recording the number of votes for and against each question put to vote, indicating any absences or disqualifications from voting and any other duties as may be assigned by the chair. The secretary's duties may be assumed by a member of the Development Office staff.

Section 5. Substitute Presiding Officer. The secretary will assume the chair's responsibilities when both the chair and vice chair are absent. If all officers are absent, those present will select a member to preside over the meeting.

### CHAPTER III ELECTION AND APPOINTMENT OFFICERS AND MEMBERS

Section 1. Date of Elections. Nomination and election of officers for the upcoming year shall be held at the January meeting. The new officers shall take office at the next regular meeting.

A nominating committee, if used, shall announce a proposed slate of officers at the December meeting.

Section 2. Method of Elections. Elections of officers will be by secret ballot. To be elected, a candidate must receive a majority vote of the Board.

Section 3. Term of Office. Each elected officer will serve for a term of one year or until the successor takes office. Officers shall be eligible for re-election.

Section 4. Vacancies of Offices. Vacancies in unexpired terms of office will be filled immediately by election of the Board.

Section 5. Appointments of Members. The Board consists of seven members appointed by the Mayor and confirmed by the City Council, for a term of three years. Members may be reappointed for an additional three year term.

Vacancies due to resignation, removal or death shall be filled within sixty days by the Mayor with approval of the Governing Body for the unexpired term. When a vacancy occurs, the chair shall immediately notify the Mayor. Members appointed to fill vacancies are eligible for two full terms following the completion of the unexpired term for which they were appointed.

Section 6. Absenteeism and Removal. Any member may be removed by the Governing Body for inefficiency, frequent absences from Board meetings, malfeasance, or failure to refrain from voting where a conflict of interest exists. After a member misses two consecutive regular meetings, the Governing Body may investigate and may recommend removal of the member.

### CHAPTER IV MEETINGS

Section 1. Open Meetings. All meetings and hearings are open to the public except for executive sessions called by the Board as provided for in the Wyoming Public Meetings Act.

Section 2. Meeting Dates. Regular meetings shall be held on the third Thursday of each month in the City of Cheyenne Municipal Building. The dates and times of the meetings may be established or changed upon the direction of the Board.

Section 3. Special Meetings. Special meetings may be called by the Chair, the Development Programs Manager or a designated Development Office representative or a Substitute Presiding Officer after such a meeting has been approved by a majority of the Board. The Development Office will poll the Board members to determine if a majority will be present at the meeting. The notice of such meetings shall specify the purpose(s) of the meeting. No other business may be considered at the special meeting. The Development Office will notify all members of the Board not less than three days in advance of a special meeting. This notice will contain the date, time, place and subjects(s) to be discussed.

Section 4. Reconsideration. After application has been made for reconsideration of a matter disapproved by less than a majority of the Board at the previous meeting, a Board member may move to reconsider the item. Reconsideration must be approved by a majority of the Board.

## CHAPTER V

### TRANSACTION OF BUSINESS

Section 1. Quorum. A quorum is a simple majority (one over half) of the membership of the Board.

Section 2. Official Business. 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.

## CHAPTER VI

### CONFLICTS OF INTEREST

Section 1. Conflicts of Interest. Any member of the board with a direct or indirect financial or personal interest that could be substantially affected by the outcome of a proceeding before the Board, must disclose the interest; the Board, by a majority vote, shall determine whether the Board member is disqualified from voting on the matter.

Section 2. Representation. No Board member may appear before the Board on official business as an applicant or as a representative of an applicant.

## CHAPTER VII

### POWERS AND DUTIES

Section 1. Authority. The Board shall have all powers necessary to carry out its function in accordance with the Wyoming Statutes and the Cheyenne and Laramie County Zoning Ordinance.

Section 2. Administrative Review. The Board may hear and decide appeals of any order, requirement, decision or determination of the Development Programs Manager or other administrative official charged with the enforcement of the zoning ordinances.

Section 3. Rule Making. The Board may adopt rules and by-laws pursuant to Wyoming Administrative Procedures Act.

Section 4. Exemptions and Variances. The Board shall have the power to grant special exemptions to the Zoning Ordinance.

Section 5. Records. Pursuant to the Wyoming Public Records Act, the minutes of the proceedings and final decisions of the Board shall be made available to the public, upon payment of costs.

Section 6. Investigations. The Board may investigate issues coming before it. During investigation, the Board may call necessary witnesses to obtain evidence and require that material relevant to the investigation be provided.

Section 7. Committees. Committees may be established by the chair to examine specific questions, findings and issues properly presented.

## CHAPTER VIII

### PUBLIC HEARINGS

Section 1. Public Hearings. In addition to those required by law, the Board may hold public hearings at its discretion when such hearings are in the public interest.

Section 2. Notice of Public Hearings. Notice of discretionary hearings shall be published once in newspaper(s) designated by the Governing Body. The publication shall occur not less than fourteen days before the meeting.

All notices of public hearings are available for public inspection at the Development Office.

Section 3. Proceedings of Public Hearings. A summary of the matters before the Board will be presented by the staff, secretary, or a designated member of the Board. Affected parties shall have an opportunity to speak.

Section 4. Minutes. A record of persons who spoke shall be kept by the secretary, or a representative specified to perform this function by the Development Office. This record shall be available for public inspection in the Development Office.



CHAPTER IX  
REQUIREMENTS FOR APPLICATIONS

Section 1. Board Approvals. All applications for Board approvals must be accompanied by written proof of notification of surrounding property owners.

The application shall be placed on the agenda three weeks before the regular meeting of the Board.

Section 2. Variances. All applications for variances shall be accompanied by written proof of notification to adjacent property owners.

The application must be placed on the agenda two weeks before the regular meeting of the Board.

Section 3. Site Layout. No application will be considered by the Board unless it includes a plot plan that reflects accurate dimensions of both existing and proposed improvements. The plan will show all property lines, parking areas, other information required on the application checklist and the information required by the Zoning Ordinance.

CHAPTER X  
CONTESTED CASES

Section 1. General Procedure. Contested cases shall be conducted in accordance with the Wyoming Administrative Procedures Act. All parties shall be afforded an opportunity for hearing after reasonable notice served personally, by mail or by publication.

The notice shall include a statement of:

- a) The time, place and purpose of the hearing;
- b) The authority and jurisdiction under which the hearings are to be held;
- c) The particular sections of the Zoning Ordinance(s) and rules involved;
- d) A brief factual statement of the matters contested.

All parties shall be afforded the opportunity to respond and present evidence to the Board. Any party appearing before the Board has the right to be accompanied, represented and advised by counsel or by a representative.

Parties may appear before the Board for the presentation, adjustment or determination of the contested issue. The Board shall resolve any matter presented to it pursuant to the Zoning Ordinance. Any person representing an agency at a hearing in which the agency is a party may not in the same case:

- a) Serve as Presiding Officer;
- b) Provide ex parte advice or information regarding the case to the Presiding Officer, the Board or any Board member.

Parties are entitled to obtain, upon payment of costs, a copy of the hearing record.

Informal disposition may be made of any contested case by stipulation, agreed settlement, consent order, default or dismissal.

The record in a contested case must include:

- a) All formal or informal notices, pleadings, motions and rulings;
- b) Evidence received or considered including matters officially noticed;
- c) Questions and offers of proof, objections and rulings;
- d) Proposed findings and exceptions;
- e) Opinions, findings, decisions or orders of the Board and reports by the Presiding Officer.
- f) Tape recordings of the proceedings.

In contested cases, the proceedings shall be tape recorded. Parties may arrange for a stenographic record at their own expense.

Findings of Fact and Conclusions of Law must be based on the evidence contained in the hearing record.

Section 2. Admissible Evidence: Cross-Examination. Irrelevant, immaterial or unduly repetitious evidence may be excluded by the Board.

Parties are entitled to confront and cross-examine all adverse witnesses.

Section 3. Ex Parte Communications Prohibited. Ex parte communications between parties, Board and staff are prohibited.

Section 4. Participants. There shall be present at the taking of evidence in all contested cases a simple majority of Board members, a Development Office representative and, if designated by the Board, a Presiding Officer.

Section 5. Decisions in Contested Cases. Decisions in contested cases require the affirmative vote of four members of the Board.

Section 6. Final Decision; Contents; Notification. A final decision or order in a contested case shall be in writing or dictated into the record. The final decision must include Findings of Fact and Conclusions of Law, separately stated. Parties shall be notified by mail of the decision. A copy of the decision will be mailed to each party or their representative.