



The City of

Blue Springs

Missouri

RULES OF PROCEDURE BOARD OF ADJUSTMENT

Adopted by City Council by Resolution No. 27-2022 on April 18, 2022



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Authority

Section 402.020.C of the Blue Springs Municipal Code provides that Rules of Procedure shall be adopted by the City Council. Any Rules, Bylaws or Guidelines previously adopted, including Administrative Guidelines dated May 2016, are hereby repealed and replaced with these Rules approved by the City Council by Resolution No. 27-2022 on April 18, 2022. These Rules shall be in effect upon their adoption by the City Council by Resolution and until such time as they are amended or new Rules are adopted by Resolution. The Board should vote to adopt the approved Rules of Procedure. Sec. 89.080 RSMo.

The Board of Adjustment may review and recommend amendments to the Rules of Procedure to the City Council by a majority vote of the members of the Board, but not less than four (4) affirmative votes. Proposed amendments must be submitted in writing to each member of the Board at least three (3) days prior to the meeting at which such action is to be taken. The Board-approved amendments shall be presented to the City Council for approval by Resolution. The amendment of the Rules of Procedure shall take effect immediately following a successful vote of the City Council.

Board of Adjustment

Section 402.030 of the Blue Springs Municipal Code establishes the Board of Adjustment (hereinafter the "Board") under the provisions of Section 89 and its counterparts in Chapter 536 RSMo., and the Blue Springs Unified Development Code, including defining the membership, terms, powers and duties authority, as the same are amended from time to time.

The Board is an appointed administrative body clothed with quasi-judicial powers to determine if a state of facts warrant or demand a variance or exception to an ordinance in a particular case.

The Board is not a court of record, nor is it a substitute for legislative authority.

Purpose

The Board of Adjustment shall have the power and duties as specified in Section 402.020 of the City of Blue Springs Unified Development Code.

Chair and Secretary

The members of the Board shall elect a Chair and Vice Chair annually on or about May 1 for a term of one year. No member shall serve more than two consecutive terms as Chair or Vice Chair. Nominations shall be made from the floor at a Board meeting after the annual appointments to the Board have been completed by the Mayor and approved by the City Council. The member receiving a majority vote of the membership of the Board in attendance and voting shall be declared elected. The Chair shall serve as the Presiding Officer of the Board meetings. In the event of absence, disability, or disqualification of the Chair, the Vice Chair shall exercise or perform all the duties and be subject to all the responsibilities of the Chair. Vacancies in the office of Chair or Vice Chair shall be filled immediately by regular election procedures.

Duties of Presiding Officer

The Chair or Vice Chair (hereinafter "Presiding Officer") shall be responsible for the conduct of the meeting. It is their duty to maintain order and decorum. They shall follow the agenda unless

a change of order is acceptable to a majority of the Board. They shall have the responsibility to limit lengthy and repetitive orations but shall allow all interested parties an opportunity to discuss and present their position. The City Attorney shall provide the Presiding Officer guidance on parliamentary procedure subject to overrule by the Board. The Presiding Officer shall sign documents of the Board. The Presiding Officer may administer oaths and compel the attendance of witnesses.

Membership

The members of the Board shall consist of five (5) who shall be residents of the City of Blue Springs appointed by the Mayor and approved by a majority of the City Council.

Terms of Members

The members of the Board shall be appointed by the Mayor for five (5) year terms, expiring after the second meeting of April on the expiring year. When a position on the Board becomes vacant, the person filling that vacancy shall be appointed for the duration of the term. Members are requested to continue serving until a replacement has been appointed.

Conduct of Members of the Board

1. Members of the Board shall take such time as to prepare themselves for hearings and meetings
2. Absent extenuating circumstances, any member of the Board absent for two (2) meetings in a year in which they confirmed their attendance may be removed from the Board. Each member of the Board who shall not be able to attend a scheduled meeting of the Board shall notify the Community Development Director at the earliest possible opportunity. City staff shall notify the Chair in the event that the projected absences shall produce a lack of a quorum.

Staff

Recording Secretary. The Community Development Department shall supply a qualified staff member to be designated as the Recording Secretary to perform all general corresponding and recording secretarial duties for the Board. The Recording Secretary will:

1. Keep the minutes of the Board. The minutes shall be completed and delivered to the Board members a minimum of three (3) days prior to the Planning Board meeting at which they will be considered
2. Prepare and post notices/agenda packets for all meetings at least three (3) days prior to a scheduled meeting
3. Maintain the permanent records of the Board
4. Perform such other duties as the Board may require.

Community Development Director. The Community Development Director or their designee shall:

1. Be responsible for carrying out the directives of the Board
2. Advise and assist the Board in the establishment of general policy
3. Prepare all necessary documents for presentation to the Board

City Attorney. The City Attorney or their designee shall:

1. Serve as legal counsel to the Board
2. Prepare memoranda of law as requested by the Board
3. Review drafts of Findings of Facts and Conclusions of Law.

4. Attend all meetings of the Board, unless excused.
5. Provide opinion as to law, ordinances or parliamentary procedure, but the final decision as to the matter of parliamentary procedure shall be the responsibility of the Presiding Officer.

Meeting Schedule

Meetings of the Board shall be held at the call of the Chair and at such other times as the Board may determine. Meeting will be held in the Council Chambers at the Howard L. Brown Public Safety Building at 1100 SW Smith Street. All meetings shall be in person with the exception of a declared State of Emergency suspending the Missouri Sunshine Law. Any members attending the meeting virtually due to a declared State of Emergency must be seen by video in order to participate in a roll call vote.

Quorum for Attendance

Four members of the Board shall constitute a quorum for its business. All members of the Board shall attend all meetings unless otherwise excused for reason. If a quorum is not present, the meeting shall be adjourned. If public hearings are scheduled, the Chair shall continue the hearing date to a future meeting date.

Voting

All members, including the Chair, shall have a vote and shall vote when present except that any member shall automatically disqualify and recuse themselves from voting on any decision in which there might be a conflict of interest as defined by the City Charter, Ordinances, and State Statutes. Refer to “Conflicts” in these Rules for additional information.

The Chair shall restate the motion before a vote is taken. The name of the maker and supporter of a motion shall be recorded. All votes shall be taken by the Recording Secretary in random order, except that the Chairman shall vote last.

The affirmative vote of four (4) voting members present and able to vote is necessary to approve a motion.

Parliamentary Rules of Procedure

The purpose of parliamentary procedure is for the assembly to conduct its businesses in the most efficient way possible while considering the rights of its members. The Board shall refer to the current edition of Robert’s Rules of Order Newly Revised to answer procedural questions not resolved in these rules, so long as it does not conflict with the Blue Springs Municipal Code or Missouri Law.

Open Meetings and Records Policy

The Board shall keep a record of its resolutions, transactions, findings, and determinations. All meetings and meeting records shall be open to the public.

Communications among a quorum of the Board is considered a public record and should be copied to the City’s repository email: cityclerk@bluespringsgov.com. More than one communication among a quorum of the Board is considered a meeting and is in violation of the Missouri Sunshine Law.

Getting the Floor

Every member desiring to speak shall address the Presiding Officer and upon recognition by the Presiding Officer, shall be confined to the question under debate.

Interruptions

A member, once recognized, shall not be interrupted when speaking unless to be called to order by the Presiding Officer, or as hereinafter provided. If a member, while speaking, be called to order, the member shall cease speaking until the question of order be determined and if in order, shall be permitted to proceed.

Conflicts

If a member of the Board believes they have a conflict and would be unable to vote on an agenda item, the member should consult with the City Attorney to confirm the conflict. Once the conflict is confirmed, the City Attorney would assist in the preparation of a statement to be used by the member to recuse themselves prior to any discussion, public hearing, introduction and vote on the conflicting matter. The member would read the statement regarding the conflict and recuse themselves from the item. The member would leave the Council Chambers prior to the initiation of the matter on the agenda and would remain absent until the final vote on the matter. The recusal may affect the quorum required for the meeting and majority affirmative vote.

The Board does not have an option to abstain from a vote due to a conflict but should recuse prior to the agenda item. If the member of the Board did not recuse themselves prior to the agenda item and participated in discussion and abstains from voting on the item, the City Attorney would advise the member that abstaining is not an option at that time. If the member continues to abstain or refuses to vote, the Recording Secretary would record the vote as "AYE" and note in the journal that the member refused to vote.

If a member of the Board does not believe they have enough information to make a decision on a matter, they may move to continue the matter to a future meeting requesting staff to provide the needed information. The motion would require a majority vote of the entire Board to continue. If the motion to continue fails, all members of the Board must vote either aye or nay.

Order of Business and Preparation of Agenda

Deadlines for filing for placement on the Board Agenda shall be in accordance with deadlines established by the Community Development Department.

The order of business on the agenda shall be as follows:

- Call to Order
- Confirmation of a Quorum/Roll Call
- Approval of previous meeting Minutes
- Presentation of requests (Public Hearing
- Reports of Commission officers and planning staff
- Other business
- Adjournment

A motion from the floor must be made and passed in order to dispense with any item on the agenda.

Where the volume of agenda items may require such action, the Chair may postpone discussion of certain agenda items until sufficient time is available for the members to give proper review to such subjects. If public interest warrants, the Chair may rearrange the order of the agenda.

Subjects not listed on an official Board agenda will ordinarily not be considered at a meeting. Unscheduled items may be added to the agenda if, in the opinion of the Chair, unusual conditions warrant the addition.

Agendas shall be posted on the Notice Board in the lobby of City Hall, and on the City's website. The agenda shall note at the bottom the date it was posted. The agenda posted on the website shall be published and sent to email addresses requesting to be notified of the Board agendas.

Meeting Shall be Open to the Public

All meetings shall be open to the public, except for closed sessions, as provided by the Statutes of the State of Missouri and the Ordinances of the City of Blue Springs.

Motions

Unless operating under procedures provided by Missouri statute or other legal regulations, all motions shall be open to debate without restriction, shall require a second (except as noted in the Rules), and shall require four (4) affirmative votes for passage. A motion requires that a Board member makes a motion by stating "I move to..." and another Board member seconds the motion. If a motion does not receive a second, the motion will not be considered.

A motion must be made and seconded before the Board can debate the motion. Debate is limited to the motion immediately on the floor.

Amending or withdrawing a motion. If a main motion is on the floor and a Member of the Board moves to amend that motion, and the motion to amend receives a second, discussion must be limited to the amendment first. If the amendment is not seconded it will not be considered.

If the seconder disagrees with the amendment, they may withdraw the second and the amendment must be seconded by another Member of the Board. The motion maker may withdraw their motion for lack of a second, or the withdrawal of the second.

If the motion to amend is passed, the main motion, as amended, can now be discussed.

A sample of commonly used motions are included on **Attachment 1**. No motion shall violate these Rules of Procedure. It is the Presiding Officer's duty to rule a motion out of order.

Procedures for Public Hearings

If the applicant or staff has requested a continuance of a public hearing to another date, the Presiding Officer will not open the public hearing, but accept a motion, second and vote to continue the public hearing. The public hearing will not require newspaper publication if continued to a date certain. Staff will include information regarding the continuation on the agenda the public hearing is continued to allow the public to follow the status of a published public hearing.

Order of Public Hearing

- The Presiding Officer announces the opening of the public hearing

- Any Members of the Board with conflict will read the statement of conflict and remove themselves from the Council Chambers during the public hearing and vote on the agenda item
- The City Attorney reads the exhibits into the record
- Swearing in – including City staff, applicant, attorneys, public, etc. The Presiding Officer may choose to swear in as a group if large number of speakers for one item
- Staff report
- Applicant and representatives will make comments regarding the request
- In Support of – if sworn as group, will be asked to state their name, address and confirm they were sworn in
- In Opposition to – if sworn as group, will be asked to state their name, address and confirm they were sworn in
- Presiding Officer announces public comment section of the hearing is over
- Presiding Officer asks applicant and staff if they have any remarks prior to Board discussion to address statements made during hearing
- Board discussion
- Close public hearing
- The public hearing shall be reopened if additional discussion or comments are made after the public hearing is closed and prior to the vote. The Court Reporter should stay until the final vote has been taken

All discussion and testimony should be given while the public hearing is open. If additional comments are made after the public hearing has been closed, a motion to reopen the public hearing is in order to capture the comments on the record.

Speakers - All speakers for public hearings shall complete a Speaker Appearance Form prior to the start of the Board meeting. This will include attorneys, architects, applicants, residents, etc.

If a large number of speakers are present for a public hearing, the Presiding Officer may ask everyone wishing to provide testimony on “XXX” public hearing to stand and be sworn in at once by the Court Reporter.

When called by the Presiding Officer, the speaker will step to the podium, state if they were sworn in with the larger group and if not be sworn in by the Court Reporter individually. The speaker shall give their name and address in an audible tone for the Court Reporter to add to the transcript, and shall limit their remarks to three minutes or less at the discretion of the Presiding Officer. The Presiding Officer may remind speakers to not repeat information previously presented by another speaker. When addressing the Board, members of the public shall direct all remarks to the Presiding Officer and shall confine remarks to the matters that are specifically before the Board at that time. The Board reserves the right to question any speaker. Written testimony may be received.

Members Leaving Council Chambers During Meeting

With the exception of a member of the Board recusing themselves and leaving the Council Chambers due to a conflict, the Presiding Officer and all Members of the Member of the Board shall remain in their designated places during the meeting unless a recess is called or the member is excused by the Presiding Officer with cause. A vote shall not be taken during a member's absence from their chair.

Visitors

The Board may, although not required to do so, allow the public to speak during the Visitors' section of the agenda. Anyone wishing to address the Council must complete a Speaker Appearance Form. If the Speaker Appearance Form is completed online, it must be submitted prior to 4:00 on the day of the meeting; otherwise the speaker will need to complete a paper form and submit to the Recording Secretary in the Council Chambers prior to the start of the meeting.

The Presiding Officer may ask speakers to not repeat comments made by others, and to limit their comments to no more than three minutes. The Board should not engage in discussion with the speaker, but take the matter under advisement for a future meeting.

Visitors are not required to be residents of the City, but the Presiding Officer may advise that the Board may not give the same weight to the testimony as it would a resident.

Conduct during Meetings

Any Member of the Board desiring to speak shall be recognized by the Presiding Officer and shall confine their remarks to one subject under consideration or to be considered.

Any discussion on issues must be relative to the specific topic at hand to allow adequate time to fully discussed scheduled issues.

Cell phone or computer use to text or use social media during meetings should be avoided.

Members of the Board should avoid discussion or sharing their opinion of matters on social media or outside of public meetings. If emails are received regarding a project outside of the public meeting, information regarding the date of the meeting at which the item will be discussed should be shared. Members of the Board should encourage the individual to attend the Board and/or City Council meetings where the item will be discussed to hear all testimony or to address the Board and Council. The City Attorney will assist in drafting a response for citizens and developers who wish to speak with Members of the Board outside of the public hearing once an application has been filed.

How and When Rules of Procedure May be Suspended

These rules may be suspended if the Board determines such action is necessary in case of an emergency that effects the general well-being, health or welfare of the City of Blue Springs or its citizens. Such consent will be by an affirmative vote of four (4) Board members present and voting.

Attachment 1 - Sample Motions

Main Motions. Motions that bring business before the Board are debatable and amendable and as a general rule need a majority vote to pass.

APPROVE – official action to endorse a proposal

AUTHORIZE – official approval to empower an action or a person to act on behalf of the Board in a specific manner

DENY – official action to reject a proposal

RESCIND/REPEAL – official action to nullify previous action taken by the Board; requires a two-thirds vote or a majority of the entire membership

Privileged motions. Motions that warrant interrupting all other motions, take precedence over other questions and are not debatable.

FIX THE TIME TO WHICH TO ADJOURN – sets the time for continuation of the present meeting in order for another meeting to continue business, but does not adjourn the present meeting or set the time for its adjournment; requires a majority vote

Example: I move that when this meeting adjourns, it adjourns to meet on (date and time) at (place).

ADJOURN – a privileged motion to close a meeting that must be seconded and is not subject to debate; discussion must be halted and a vote taken

RECESS – Short interruption which does not close the meeting; motion is not required if recess is included on the agenda

CLOSED SESSION – allows for a closed session for those purposes stated in RSMo 610.021; motion must be made in an open session, must be seconded, and is subject to limited debate as to the date and/or time and general purpose

Incidental motions. Motions that arise out of another pending question that takes precedence and must be decided before the question is answered or are incidental to a question that should be decided before any other business is taken up.

POINT OF ORDER – enables a Member of the Board to bring attention to a potential breach of order or to question a procedure or rule; it does not require a second and is not debatable

SUSPENSION OF THE RULES – enables the Board to temporarily set aside its rules, or any specific portion of its rules, in order to proceed to the consideration of a question or matter; it must not extend past the matter acted upon or the meeting, must state the purpose for the suspension and requires a second

DIVIDE A QUESTION – enables the Board to divide a complex question or proposal and to consider the matter by section or paragraph; it must be seconded and is not subject to debate

Subsidiary motions. Motions that set aside a motion temporarily and permanently.

AMEND – to improve or clarify the intent or substance of a pending motion that must be made while a motion is on the floor. Amendments must be relevant to the question under consideration and shall be acted upon in reverse order. Motions can be amended only to a third degree, that is, one can amend an amendment, but can go no further.

ADDITION – addition of specific words or phrases or sentences to perfect the intent or meaning of the pending main motion.

SUBSTITUTION – substituting provisions, sections or the entire language of the original motion and providing in lieu thereof new provisions, sections or language; substantially, offering a new motion relevant to the subject of the original main motion properly in possession of the body.

REFER – enables any pending question or matter to be referred to a committee, agency or department, or another entity for review, comment and possibly recommendation.

POSTPONE – postponing consideration (or further consideration) of a measure to a certain motion and carries a time limit and can be debated as to the merits of postponement.

POSTPONE TO A CERTAIN TIME/POSTPONE DEFINITELY – set the date and time when the motion will be acted upon

TABLE – temporarily setting aside a pending motion (or series of pending motions) to take care of something else deemed urgent; if the motion laid on the table is not taken from the table by the next regular meeting, the motion dies

Pending motion. When a main motion has been made, members can amend it, postpone it, etc. All of the actions that take place while the main motion is pending are subsidiary motions.