



BY - LAWS  
OF  
THE LENEXA BUILDING CODE BOARD OF  
APPEALS



MAY 6, 2022



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OF  
THE LENEXA BUILDING CODE BOARD OF APPEALS**

**ARTICLE ONE  
Creation**

**SECTION ONE:** Name. There is hereby continued by the City Code of Lenexa, Kansas, a Building Code Board of Appeals. It shall hereinafter be referred to as the “Board.”

**SECTION TWO:** Membership. The Board membership shall comply with the Lenexa City Code.

**ARTICLE TWO  
Purpose**

**SECTION ONE:** By-Laws. The purpose of these By-Laws is to establish rules for the internal organization and procedures of operation of the Board.

**SECTION TWO:** Board. The function, powers, and duties of the Board are as authorized by applicable City ordinances, resolutions, and/or Code provisions. The Board adopts its own rules and policies for procedure, consistent with its powers.

**ARTICLE THREE  
Organization**

**SECTION ONE:** Officers. The officers of the Board shall be a chairperson, vice chairperson, and secretary. The chairperson and vice chairperson shall be elected by the Board at a regular or special meeting annually or as soon thereafter as practicable. The terms of office shall be one (1) year or until their successors have been elected. Both the chairperson and vice chairperson may be re-elected.

**SECTION TWO:** Chairperson. The chairperson shall preside at all meetings of the Board. At thier discretion, a chairperson may call special meetings and may also relinquish the Chair to the vice chairperson or other specific member. The chairperson shall perform all of the duties assigned to their office by law and by the City Governing Body and shall have such usual powers of supervision and management as pertain to the office of chairperson. If the position of chairperson becomes vacant for any reason, the vice chairperson shall succeed to the chairpersonship for the remainder of the term.

**SECTION THREE:** Vice Chairperson. The vice chairperson shall act as chairperson in the absence or disability of the chairperson. In the event the office of chairperson becomes vacant, the vice chairperson shall succeed to that office for the unexpired term and the Board shall select a new vice chairperson for the unexpired term.

**SECTION FOUR:** Secretary.

A. Secretary. The Chief Building Officer serves as the Secretary of the Board. This office is not a member of the Board. The Secretary shall send notices of all regular and special meetings to all members of the Board. In addition, the Secretary shall have administrative responsibility for all books, papers, and records thereof, and attend to all correspondence of the Board.

B. Recording Secretary. This position may be held by a City employee or may be an individual who is under contract with the City to attend all regular and special meetings of the Board. The Recording Secretary shall keep records of all regular and special meetings and shall transcribe minutes for placement in the Minute Book of the Board.

**SECTION FIVE:** Attendance. Attendance shall be as prescribed in Section 1-4-A-4 of the Lenexa City Code.

**SECTION SIX:** Staffing. The Board shall be served by the Building Services Division in the Community Development Department and the Fire Prevention Division in the Fire Department ("Staff"). Staff shall provide professional and technical assistance to the Board. Staff shall present recommendations to the Board.

**ARTICLE FOUR**  
Meetings

**SECTION ONE:** Regular meeting. The Board shall meet annually in May or as soon thereafter as practicable.

**SECTION TWO:** Special Meetings: Special meetings of the Board shall be called by the chairperson, or in thier absence, by the vice chairperson, and held at any time or place fixed in the notice. Only items specified in the meeting notice may be acted upon at the special meeting. Notice may be made by telephone, mail, or e-mail.

**SECTION THREE:** Quorum. A majority of the membership of the Board shall be necessary to constitute a quorum for the transaction of business and the taking of official action.

**SECTION FOUR:** Attendance Via Phone. Attendance via phone is generally not permitted and Board members are expected to attend meetings in person; however, a Board member may participate in a regular meeting of the Board by conference telephone or similar communications equipment, provided:

- A. The conference telephone or similar communications equipment enables all persons participating in the meeting to hear each other;
- B. The attendance by conference telephone or similar communications equipment permits full compliance with the laws of the State of Kansas, the Ordinances of the City of Lenexa, and these by-laws; and

- C. The only items on the meeting agenda are approval of previous regular or special meeting minutes, elections of a new chairperson and vice chairperson, and reports or other communications.

At least three (3) calendar days prior to the scheduled meeting, the Board member must inform the Secretary if the Board member is planning to attend the meeting via phone. The Secretary will ensure that the meeting is conducted in a way that the public may observe or listen to the proceedings.

## **ARTICLE FIVE**

### **Conduct of Meetings and Meeting Management**

**SECTION ONE: Rules of Order.** This document shall govern the procedure of all meetings of the Board so long as they are consistent with the laws of the State of Kansas or the Ordinances of the City of Lenexa.

**SECTION TWO: Right of Floor.** The chairperson will recognize members of the Board, staff or audience desiring to speak, and confine remarks to one subject under consideration.

**SECTION THREE: City Attorney.** The City Attorney or designee attends all meetings of the Board and acts as the Board's adviser on meeting conduct and management.

**SECTION FOUR: Preservation of Order; Meeting Order.** The chairperson shall preserve the order and decorum and keep those in debate to the question under discussion. The order of business for Board meetings will be as follows, unless otherwise amended as provided by these by-laws:

- A. Call to Order;
- B. Roll Call;
- C. Approval of Minutes;
- D. Agenda Amendments;
- E. Agenda Items;
- F. Old Business;
- G. New Business;
- H. Reports or Other Communication; and
- I. Adjournment.

**SECTION FIVE: Agenda.**

- A. Agenda Availability. The Agenda for a regular meeting shall be available at the Building Services Division Office in the Lenexa City Hall at least three (3) calendar days prior to the meetings.
- B. Agenda Amendments. Once the agenda has been provided to the Board, any amendments to the agenda shall be made at the meeting.
- C. Change in Agenda Order. The Order of the Agenda may be amended at the discretion of the chairperson. The order of specific items on the Agenda may be amended at the discretion of the secretary.

D. Items Not on the Agenda. The Board may consider items not on the Agenda of a regular meeting if a majority of the Board members present vote to do so, provided the item is in compliance with state law.

**SECTION SIX:** Staff Reports. Staff reports on all agenda items shall be prepared and provided to the Board members at least three (3) calendar days prior to the regularly scheduled meeting. In the event that a special meeting is scheduled less than three (3) calendar days prior to such meeting time, staff reports on agenda items shall be prepared and provided as soon as practicable prior to such special meeting. Staff reports shall contain an analysis of the agenda item and a recommendation from the professional staff.

**SECTION SEVEN:** Call to Order. The chairperson will call the meeting of the Board to order. In the event both the chairperson and vice-chairperson are absent, the secretary will call to order the meeting to elect a temporary chairperson.

**SECTION EIGHT:** Discussion of Issues; Cross Communication. At the discretion of the chairperson, cross communication among and between members of the Board, staff members and those in attendance at the Board meetings is permitted; however, the chairperson may limit or prohibit cross communication to ensure the orderly conduct of Board business. The chairperson may require members of the Board or staff members to gain the attention of the chairperson by raising their hand and being acknowledged prior to speaking.

**SECTION NINE:** Board Action. The Board shall take action on each item presented at the conclusion of discussion on the item. Any member of the Board may make a motion to take such action on the item. Upon receiving a second, the motion may be discussed and, upon a call for question or at the discretion of the chairperson, brought to a vote. A motion to amend, if necessary, must be voted on first. If an amendment passes, the vote is on the motion as amended, otherwise, as originally stated. The chairperson may not make or second motions, but he/she may vote on all motions that come before the Board

All votes shall be by voice vote unless otherwise provided herein. The chairperson, Recording Secretary, City Attorney, or any member of the Board may request a poll vote on any item. If a poll vote is requested, the Recording Secretary shall conduct the poll and tally the votes. All members, including the chairperson, shall be entitled to vote when present except that any member shall automatically disqualify themselves from voting on any decision in which they may have a conflict of interest.

**SECTION TEN:** Abstentions. No one may be compelled to vote, although members of the Board do have a duty to vote to express their willingness to share in the responsibilities of decisions. If a member of the Board desires not to vote, they may abstain when their vote is requested.

Members of the Board must comply with the City's Code of Ethics. If a member of the Board believes they have a conflict of interest under the City's Code of Ethics, the member shall abstain from action and participation, advise of the conflict, and leave the room until

discussion and action on the item is complete. If abstention of a member due to a conflict of interest will eliminate a quorum, then the Board shall continue the item to the next regular meeting or a properly noticed special meeting called for that purpose. If there is a tie vote, an abstention shall be considered a denial.

**SECTION ELEVEN:** Tie Vote. If there is a tie vote of the Board on an action, which the Board sits as a final decision maker, a tie vote shall defeat the motion. If no subsequent motion is made and approved after the tie vote, the request is deemed denied.

**SECTION TWELVE:** Revote on Same Item. The Board shall only be entitled to revote on an item previously considered and voted upon in conformance with the requirements of this Section. A motion to reconsider may be made by any Board member who voted on the prevailing side of an issue to ask that the issue be reconsidered. The motion must be made at the same meeting in which the original vote was taken but shall not be debated until the next regular meeting of the Board or a properly noticed special meeting called for that purpose. Further, prior written notice of such reconsideration must be given to the applicant prior to the meeting at which the motion to reconsider will be debated and voted upon.

**SECTION THIRTEEN:** Applicant Not in Attendance. If an applicant or their agent is not in attendance when their item is called, the item may be set over to the end of the agenda. If at the time the item is called again the applicant is still not present, the Board may continue the case, or may approve or deny the proposition as it sees fit.

**SECTION FOURTEEN:** Continuances. Any item may be continued upon request of the applicant or recommendation by staff or by vote of the Board. The applicant and staff are each entitled to one (1) continuance as a matter of right, and subsequent continuances only upon approval of a majority of the Board members present. If the Board does not approve subsequent continuances, the Board must take action, or the applicant must withdraw the item. An applicant for any item that has been continued more than two times must again comply with all applicable notice requirements for such item. Items may also be tabled and recalled at the request of the applicant, staff, or Board. A tabled item which fails to be recalled after six (6) months shall be considered withdrawn.

**SECTION FIFTEEN:** Appearance Before the Board. Applicants or their representatives may appear before the Board to present their views on an agenda item. The Board may, at the discretion of the chairperson, entertain public comment from members of the community or individuals or their representatives who believe they will be affected by the Board's action. Whenever a person or entity appears before the Board, the chairperson may, at their discretion, prescribe procedures for registration of speakers and require that each person come forth and state:

- A. Name;
- B. Address; and
- C. Person or organization that the person represents or is speaking as an individual.

The chairperson may also reasonably limit the length of all persons' presentation or discussion to ensure the orderly conduct of Board's business; however, the decision of the chairperson may be overridden by a majority of the Board present.

**SECTION SIXTEEN:** Incomplete Submittals. The Board will not hear items that fail to clearly indicate the scope and nature of the appeal, as well as the applicable code section relevant to the appeal. When the appeal involves the approval of an alternative design, material, or method of construction, the applicant shall clearly explain why the proposal meets the requirements for an alternative design, material, or method of construction set forth in the International Building Code, as adopted by the City of Lenexa.

**SECTION SEVENTEEN:** Record of Proceedings. The Recording Secretary shall record the minutes of each meeting as a matter of public record and shall present such minutes to the Board for approval at the next meeting of the Board.

**SECTION EIGHTEEN:** Recess. At any point in the agenda, the chairperson may declare a short recess until a specified time.

## **ARTICLE SIX** Miscellaneous

**SECTION ONE:** Ex Parte Communication. Ex parte communications are private communication, written, electronic, or other, by or with any Board member that is not subject to public review.

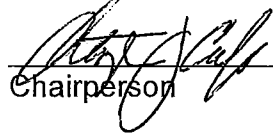
Any ex parte communication shall be disclosed at any meeting at the time the item is announced. The Board member receiving the communication shall disclose the full nature of the ex parte communication including the identity of the individual(s) participating in the communications and any information obtained through the communications.

Communications are not in violation of the ex parte disclosure requirements if they do not pertain to specific item before the Board.


**SECTION TWO:** Suspension of Rules. Any of these By-Laws may be suspended by affirmative vote of a majority of the Board membership at a special or regular meeting at which a quorum is present.

**SECTION THREE:** Amendment of Rules. These By-Laws may be amended or repealed by affirmative vote of a majority of the Board members present and voting at either a special or regular meeting.


APPROVED:

  
Chairperson

ATTEST:

  
Matt Souders, Secretary

APPROVED AS TO FORM:

  
Steven D ShROUT  
Assistant City Attorney