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**CITY OF RAWLINS
BOARD OF ADJUSTMENTS
BY-LAWS, RULES AND PROCEDURES**

Revised April 21, 2016

ARTICLE I: Name.

The name of this organization shall be the City of Rawlins Board of Adjustments, hereinafter referred to as "Board."

ARTICLE II: Purpose.

The Board of Adjustments is created pursuant to W.S. § 15-1-605 which congers all the powers and duties of state law and no others except as specifically set forth in this document. The Board of Adjustments shall hear and decide such appeals as may be taken from orders, requirements, decisions, and determinations made by the Planning Commission or City Staff charged with the enforcement and interpretation of Title 19 and Title 15. The Board of Adjustments shall hear and decide all matters referred to it or upon which it is required to pass under any such ordinance. The Board of Adjustments has the power to hear and decide special exemptions to the terms of ordinances found within Title 19. The Board of Adjustments has the power to vary or adjust the strict application of any of the requirements of any ordinance adopted pursuant to this title in the case of any physical condition applying to a lot or building if the strict application of the regulations of Title 19 would deprive the owner of the reasonable use of the land or building involved. The Board of Adjustment also acts to serve as the Board of Appeals under the various International Building Codes adopted by the City of Rawlins pursuant to Chapter 15.24 of the Rawlins Municipal Code. The adoption of national building codes by the City is specifically authorized by Wyoming Statute Section 15-1-119, W.S. 1977. Section 15.08.130 of Rawlins Municipal Code describes the role of the Board of Adjustments in the administration and application of this code.

- a. These By-Laws shall regulate and govern the affairs of the City of Rawlins Board of Adjustments.
- b. These Rules are promulgated under the Wyoming Administrative Procedure Act, §16-3-101 through §16-3-115, W.S. 1977, as amended.

The decision of the board may be reviewed by the District Court pursuant to Rule 12 of the Wyoming Rules of Appellate Procedure. W.S. §15-1-609.

ARTICLE III: Regulations.

The regulations of the business and conduct of the affairs of the Board shall be determined by the Resolution of the Rawlins City Council, by these By-Laws and by additional rules of procedure that, from time to time, may be adopted.

ARTICLE IV: Board Appointment.

Section 1. Membership.

The Board of Adjustments shall consist of not less than five (5) nor more than seven (7) members. Boards shall consist of qualified electors of the City of Rawlins. The Board Members shall be appointed by the Mayor, by and with the approval of a majority vote of all City Council Members

Section 2. Terms.

Board Members shall serve three (3) year terms with the consent of the City Council. Each Board Member shall be initially appointed for staggered terms of one (1), two (2) and three (3) years. Members may be reappointed. Reappointed or newly appointed terms, once the initial staggered terms are completed will be appointed for three (3) year terms. All Board Members shall hold office until their successors are appointed and qualified. Any Board Member may, after a hearing before the Rawlins City Council, be removed by the Mayor, by and with the consent of a two-thirds (2/3) vote of all members of the Rawlins City Council, for gross neglect or duty of malfeasance in office. Variances occurring otherwise and through the expiration of the term shall be filled for the unexpired term by the Mayor, by and with approval of a majority vote of all members of the Rawlins City Council.

Section 3. Compensation.

Board Members shall serve without compensation, except for reasonable and actual expenses.

ARTICLE V: Officers.

Section 1. Election of Officers.

The Board shall organize annually, including election of officers, at the first regular meeting of the new calendar year.

Section 2. Board Officers.

The Boards shall elect a Chairman, Vice-Chairman, a secretary, and other officers deemed necessary.

Section 3. Chairman.

The Chairman shall preside at all meetings and public hearings of the Board, shall decide all points of order or procedure, shall certify recommendations of the Rawlins City Council, and shall transmit reports and recommendations of the Board to the City Council. The Chairman may authorize any Board Member or staff member to certify recommendations.

Section 4. Vice Chairman.

The Vice Chairman shall assume the duties of the Chairman in the Chairman's absence.

Section 5. Senior Member.

In the absence of both the Chairman and Vice Chairman the senior member of the board shall assume the duties of the Chairman if a quorum is present.

Section 6. Secretary.

The secretary shall be responsible for keeping the minutes of the Board, sending agendas to the members of the Boards, carrying out routing correspondence, mailing of agenda packets to the members, maintaining record of the Boards except those records pertaining to finance and which are the responsibility of the Finance Director, and performing such other duties as the Board may require. The Community Development Secretary will serve as Board Secretary.

Section 7. Committees.

The Board may establish such committees as it deems advisable and assign each committee specific duties and functions. The Chairman shall designate the members of each and shall name the Chairman of each committee. The Chairman shall make appointments to fill vacancies on committees as they occur.

ARTICLE VI: Meetings.

Section 1. Regular Meetings.

The Board shall hold at least one regular meeting each quarter based upon the boards schedule and the business that needs to be conducted. Regular meetings times shall be reserved on the third Wednesday or Thursday of the month at 5:30 p.m. in the City Council Chambers located within City Hall, 521 West Cedar Street, Rawlins, Wyoming, Pursuant to the Wyoming Public Meeting's Act, public notice shall be given of all Board Meetings.

Section 2. Special Meetings.

Special Meetings of the Board may be called by the Chairman, or in the Chairman's absence, by any of the members of the Board, provided that each member is notified in writing, of the time and place of the Special Meeting at least two (2) days prior to the Special Meeting. The notice shall specify the business to be transacted, and no other business shall be considered at a special meeting.

Section 3. Order of Business.

The order of business at regular meeting shall be as follows:

1. Roll Call.
2. Approval of Agenda.
3. Approval of previous meetings minutes.
4. Citizens Participation.
5. Public Hearings.
6. Unfinished and Old Business.
7. New Business.
8. Discussion.

9. Adjournment.

The order of business may be changed upon regular motion carried by a majority of the members present.

Section 4. Public Meetings.

Meetings of the Board shall be open to the public, except meetings, which the Board shall decide, should not be open to the public with regards to the following only:

- a. Matters concerning litigation to which the Board is a party or proposed litigation to which the Board may be a party.
- b. Matters concerning the selection of a site or the purchase of real estate by the City of Rawlins, when the publicity regarding the consideration would case a likelihood of an increase in price.

Section 5. Quorum.

A majority of the Board shall constitute a quorum for the transaction of business

Section 6. Voting.

An affirmative vote of majority of a quorum of the Board shall be necessary to authorize any official action of the Board. Where such vote is not possible either for or against a particular proposal, the results of such action shall be submitted to the City Council with an explanation of the failure of the Board to establish an official vote on the subject in question. All members including the Chairman shall have a vote, all votes shall be by voice, all votes shall be a cast in person by a Board Member and each member shall vote when present, except that any member shall automatically be disqualified from voting on any decision in which there may be a conflict of interest.

Section 7. Parliamentary Procedure.

Where procedural or parliamentary rules adopted by this Board do not conflict, parliamentary procedure shall be according to the Robert's Rules of Order.

Section 8. Attendance.

Members must maintain at least a seventy-five (75%) percent attendance record. Excessive absenteeism by a Board Member, or more than three (3) un-excused absences, will be dealt with through meeting of the board to determine any recommendation to the Mayor and City Council regarding continued Board Membership.

Section 9. Postponement.

Where the volume of the Board of Adjustment subjects may require such action, the Chairman of the Board may postpone discussion of certain subject until sufficient time is available for the members to give proper review to such subjects.

Section 10. Agendas.

Agendas shall ordinarily be mailed to members of the Board of Adjustments at least five days prior to the meeting at which such subjects are to be considered.

Section 11. Subjects not listed.

Subjects which are not listed on an official Board of Adjustments agenda shall not be considered at a meeting, unless unusual conditions approved by the Board of Adjustments justify such actions and the agenda is amended to reflect such items.

Section 12. Record Keeping.

The Board 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 Board shall keep records of its examinations and other official actions. All minutes are public records and shall be filed with the Board's Secretary in the Community Development Office at City Hall.

Section 13. Reports and Recommendations.

The Board shall submit a written report to the Rawlins City Council during January of each year, summarizing all of its activities for the previous calendar year. The Board may also make such recommendations to the City Council that it deems appropriate as part of its report.

ARTICLE VII: Public Hearings.

Section 1. Conformity to Provision of Law.

Public Hearings conducted by the Board shall conform to all provision of the "Wyoming Administrative Procedure Act" and provisions of law in the matter of public notice, time, and reporting. A formal hearing before the Board, which for any reason, cannot be completed at the time and place originally advertised, may be adjourned to a later date and the announcement of such adjournment and the time and place of such adjourned meeting shall constitute a sufficient notice to all parties concerned.

Section 2. Authorized to Preside.

Any member of members designated by the Board for the purpose shall be authorized and qualified to preside over and conduct any formal hearing, provided that the purpose of such hearing shall be confined to the taking and recording for all pertinent testimony, and the member or members conducting such hearing shall summarize the testimony introduced and render their opinions thereon to the full

Board. Decision on matters held at such hearings before a member or members shall, however, be made only at, a regular or adjourned or special meeting of the Board.

Section 3. Member Participation.

The presiding officer and members of the Board shall not participate in the actual hearings other than propounding pertinent questions to the witness for the purpose of employing testimony. The members of the Board shall never indulge in any argument with the witness during the course of the hearing.

Section 4. Discussion of Pending Matters.

Since the Board is serving in a quasi-judicial capacity, no member of the Board shall at any time discuss with any party having an interest therein any matter pending before the Board other than during the actual period in which the hearing is being conducted.

Section 5. Presentation of Facts.

Prior to the public hearing, the hearing officer or staff present the primary and basic facts.

Section 6. Procedural Conduct.

The procedure conduct of public hearing shall closely conform to the following outline:

- a. The presiding officer will announce. "This is the time and place for the hearing on the _____."
- b. The presiding officer will then request the Secretary or an employee to read the formal written application, petition, or appeal.
- c. The secretary of staff will then proceed to read the same.
- d. The presiding officer will then announce approximately as follows: "In receiving testimony retaining to the matter now pending before the Board, the supplement the information given on the application. Upon the completion of testimony by proponents, an opportunity will be given to those who may oppose the application to present evidence. Upon the completion of the presentation of the opponent's case, an opportunity will be given to the applicants to rebut any testimony that may have been introduced. At the conclusion of such rebuttal testimony, the hearing will be closed.
- e. The presiding officer will then inquire, "Is the applicant or his representative present, and do you desire to be heard?" Thereafter, the

applicant, and in order, others who desire to testify on behalf of the application will be heard.

- f. The presiding officer will then inquire, "Are there any persons present who desire to be heard in opposition to the application" Thereafter, those who may be present who do so desire to testify in opposition will be heard in order.
- g. Upon the completion of the opposing testimony, the presiding officer will inquire, "If the applicant or his representative has rebuttal testimony that he desires to introduce, it will now be received." It will then be received.
- h. If, during the course of the hearing, it is the desire of any party to the hearing to ask questions of the witnesses, such questions shall be deferred until the conclusion of the testimony by the witness and then the questions shall be directed to the witness through the presiding officer, not from the floor. In this connection, testimony shall be kept to factual matters and personal references shall never be permitted.
- i. The presiding officer will then announce, "Is there any question that any member of the Board would like to direct any witness, before the hearing is closed?" Such questions may be asked upon recognition by the presiding officer.
- j. The presiding officer will then announce. "The testimony in this case has been completed", and if there are no objections, the presiding officer will declare the hearing closed. (After pause) "The public hearing is closed"? Upon objection, either the hearing continues, or the presiding officer entertains a motion to close the public debate.
- k. The Chairman requests comments and opinions from the Board. The public is not allowed to participate except in response to questions from the Chairman.
- l. At the discretion of the Chairman, each case can be taken under temporary advisement to be considered later during the same meeting, and the next case heard. In all cases taken under advisement, the Board may recall all interested parties for further information as it may deem necessary to render an effective decision.
- m. Upon motion made and approved by the Board, any case can be taken under advisement until the next regular meeting at which there is a quorum present. Failure of the Board to act at the next regular meeting at which a

quorum is present shall be deemed approved unless the petitioner agrees to further delay.

- n. Upon motion made, the Board may declare itself in executive session. The chairman calls for a vote and a vote is recorded. The final decision will be dictated into the record. The final decision shall include finding of fact and conclusions of law separately stated if the petition is denied and the findings or conclusions are requested by the petitioner.
- o. After all cases have been decided by the Board or have been taken under advisement, the meeting proceeds according to the agenda.

ARTICLE VIII: CASES NOT REQUIRING PUBLIC HEARING.

Section 1. Procedural Conduct.

The following outline is hereby established as the procedure to be followed in the consideration of all formal cases not requiring public hearings:

- a. The Board of Adjustments shall be briefed by staff on all primary and basic facts relative to the case.
- b. The Chairman requests anyone, his agent or attorney, to speak for the case, followed by anyone else for the case in question.
- c. The Chairman requests anyone, his agent or attorney, opposed to the case to speak.
- d. The Chairman requests comments and opinions from the Board. The public is not allowed to participate except in response to questions from the Chairman.
- e. Upon the discretion of the Chairman, each case can be taken under temporary advisement to be considered after the same meeting, and the next case heard. In all cases taken under advisement, the Board may recall all interested parties for further information as it may deem necessary to render an effective decision.
- f. Upon motion made and approved by the Board, any case can be taken under advisement until the next regular meeting, at which there is a quorum present. Failure of the Board to act at the next regular meeting at which a quorum is present shall be deemed approved unless the petitioner agrees to further delay.

- g. Upon motion made, the Board may declare itself in executive session. The Chairman calls for a vote and a vote is recorded. The final decision will be dictated into the record. The final decision shall include findings of fact and conclusions of law separately stated if the petition is denied and the findings of fact and conclusions of law are requested by the petitioner.

IX: APPEALS, VARIANCES, STAYS AND REVIEW OF DECISIONS

Section 1. Signed Applications.

A formal signed application must be made on the furnished form before any petition will be accepted and processed.

Section 2. Necessary Information.

Petitioner must furnish necessary information so that the Board may systematically and meaningfully consider the petition and arrive at a decision/recommendation of approval/disapproval.

Section 3. Case Types.

Case types to be formally presented to the Board include petitions for:

- a. Appeals taken from orders, requirements, decisions and determinations made the Planning Board or City Staff charged with the enforcement and interpretations of Title 19 and Title 15.
- b. Request for Variances.

Section 4. Hearing of Appeals.

- (A) The Board of Adjustment shall hear and decide such appeals as may be taken from orders, requirements, decisions and determinations made by the Planning & Zoning Commission or City Staff charged with the enforcement and interpretation of the provision of this title.
- (B) In the case of an Appeal, the Board shall:
 - 1. Fix a reasonable time for hearing an appeal of not less than ten (10) days nor more than forty-five (45) days from the date of the appeal;
 - 2. Give not less than forty-eight (48) hour notice to the public of the scheduled hearing;
 - 3. Provide not less than five (5) day notice to the parties in interest; and,
 - 4. Decide the appeal within thirty (30) days after the hearing.
- (C) Any party may appear in person at the hearing or by agent or attorney.
- (D) The Board shall adopt written rules for the parties to follow during the hearing, which shall insure that each side is allowed to present such evidence as is relevant and useful in the view of the Board, without undue repetition, and that each party shall have the opportunity to argue its

position. If no such rules are adopted or effective, then the Wyoming Rules for Administrative Hearings shall apply.

- (E) The Board may reserve, modify or affirm in whole or in part the order, requirement, decision of determination as it deems appropriate, provided, however, that no power exercised by the Board under this paragraph shall exceed the power or authority vested in the Planning & Zoning Commission of staff member from whom the appeal is taken.

Section 5. Filing an Appeal.

Any aggrieved person affected by a decision of the Planning & Zoning Commission or City Staff concerning Title 19 or Title 15 may appeal such decision to the Board of Adjustment. Appeals must be filed within thirty (30) days following the issuance of the action by the Planning & Zoning Commission or the staff person. The appeal must be filed in writing to the Community Development Department. The Appeal must state with specificity the Commission or staff person who made the decision; the date of the decision was improper and the decision that should have reached. The Planning & Zoning Commission or staff member from whom the appeal is taken shall immediately transmit to the Board of Adjustment the complete record of the action from which the appeal is taken by delivering a copy of such to the Community Development Department.

Section 6. Stays.

A properly filed appeal from a decision by the Planning & Zoning Commission or city staff may, if requested by the Appellant, stay all proceedings related to the appeal if good cause is shown by the appellant to the Board of Adjustment in sworn affidavit for such stay, provided, however, that no stay shall be granted if the Planning & Zoning Commission or City Manager certifies to the Board of Adjustment that the facts affirmed to the Board demonstrate an immediate threat to life or property which can be avoided by denying the stay. In such case, no stay shall be granted except by restraining order issued by the District Court for good cause shown.

Section 7. Variances.

The Board has the power to:

1. Hear and decided special exemptions to the terms of Title 19 Ordinances.
2. Vary or adjust the strict application of any of the requirements of any

Ordinance adopted pursuant to this title in the case of any physical condition applying to a lot or building if the strict application of the regulations of this title would deprive the owner of the reasonable use of the land or building involved. The Board shall set forth its finding of fact in writing, with copies of such sent to each of the parties within the time specified herein. Any decision made by the Board shall be based upon the finding that there are unique circumstances to the property being addressed and that no adjustment in the strict application of any provision of an ordinance may be granted unless:

- a. There are special circumstances of conditions fully described in the Board's findings, which:
 - i. Are peculiar to the land or building for which the adjustment is sought; which.
 - ii. Do not apply generally to land or buildings in the neighborhood; and,
 - iii. Have nor resulted from any act of the applicant subsequent to the adoption of the ordinance:
 - b. There are circumstances or conditions fully described the Board's findings such that:
 - i. The strict application of the provisions of the ordinance would deprive the applicant of the reasonable use of the land or building;
 - ii. The granting of the adjustment is necessary for the reasonable use thereof; and,
 - iii. The adjustment granted is the minimum adjustment that will accomplish the intended purpose; and,
 - c. The granting of the adjustment is in harmony with the general purposes and intent of the ordinance and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.
3. Grant exemption and variances upon request after a showing that an illegal construction or a nonconforming building or use existed for a period of a showing that an illegal construction or a nonconforming building or use existed for a period of at least five years in violation of local ordinance and the City has not taken steps toward enforcement.

No variance or use shall be granted in a zone restricted against the structure or use.

Any variance granted by the board of adjustment pursuant to the provisions of this section shall be constructed to be conforming.

The concurring vote of a majority of the Board of Adjustment is necessary to reverse and order, requirement, decision or determination of any administrative official, to decide in favor of the application of any matter upon which it is required to pass under any ordinance or to effect any variation of any ordinance.

Section 8. Review of Decisions.

Any decision of the Board of Adjustments may be reviewed by the District Court pursuant to Rule 12 of the Wyoming Rules of Appellate Procedure.

X: AMENDMENTS.

Section 1. Rules and Procedures.

These Rules and Procedures may be amended by an affirmative vote of four members of the Board of Adjustments provided such proposed amendment has been

submitted in writing to each member of the Board at least three (3) days prior to the meeting at which such action is taken.

XI: REPEAL

Section 1. Repeal and Replace.

These Rules and Procedures hereby repeal and replace any and all other Rules of Procedure which the Board may have previously adopted.

BOARD APPROVAL AND RECOMMENDATION TO THE RAWLINS CITY COUNCIL

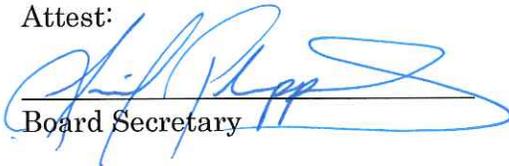
THE RAWLINS BOARD OF ADJUSTMENTS HEREBY APPROVES, RATIFIES AND RECOMMENDS these Bylaws consisting of thirteen (12) written pages to the Rawlins City Council for final approval on the 21st day of April, 2016.

Rawlins Board of Adjustments



Steve Nicholson, Chairperson

Attest:



Board Secretary

RAWLINS CITY COUNCIL PASSAGE, APPROVAL AND ADOPTION OF THE RAWLINS BOARD OF ADJUSTMENTS GOVERNING BYLAWS, RULES AND PROCEDURES

THE ABOVE AND FOREGOING RAWLINS BOARD OF ADJUSTMENTS BYLAWS, RULES AND PROCEDURES WERE PRESENTED TO THE RAWLINS CITY COUNCIL on the 3rd day of May, 2016, at a regularly held meeting of the Rawlins City Council with said Bylaws, Rules and Procedures being approved by a majority of the Rawlins City Council and shall hereby become the Bylaws, Rules and Procedures to be utilized by the Rawlins Board of Adjustments henceforth.

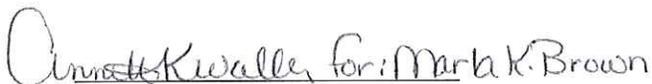
PASSED, APPROVED AND ADOPTED by the Rawlins City Council this 3rd day of May, 2016.

THE CITY OF RAWLINS,
A WYOMING MUNICIPAL CORPORATION.



Mayor Robert L. Grauberger

ATTEST:



Marla K. Brown, City Clerk