

**RULES OF PROCEDURE  
LAKE RAY HUBBARD APPEALS BOARD  
CITY OF GARLAND, TEXAS**

**As Adopted**

**ARTICLE I.**

**GENERAL PROVISIONS**

- Section 1: Any member who has any interest in a matter before the Board as that term is defined under the conflict of interest, shall not vote thereon at any meeting or hearing at which said matter is under consideration and shall take or refrain from taking any other action required by applicable laws.
- Section 2: Members of the Lake Ray Hubbard Appeals Board shall base their consideration of matters on which the Board conducts a public hearing upon the following information and evidence:
- (A) Testimony, exhibits, and argument presented at the hearing, and not upon direct or indirect communication with any party or representative of such party made outside of the hearing;
  - (B) Reports, memoranda and other materials prepared by the Director of Planning, or other appointed employees of the City of Garland in connection with the application and made a part of the record at the time of hearing;
- Section 3: Nothing herein shall be construed to give or grant to the Board the power or authority to alter or change the Take Area Zoning Ordinance, including the zoning map, which authority is reserved to the governing body.
- Section 4: The City Attorney shall be consulted in cases where the powers of the Board are not clearly defined.

**ARTICLE II.**

**OFFICERS AND DUTIES**

- Section I: The officers shall be a Chairman, and Vice-Chairman, both of whom shall be selected by the Board from among its regular members. The Department of Planning Secretary or designee shall serve as Recording Secretary .

- Section 2: The Chairman shall supervise the affairs of the Lake Ray Hubbard Appeals Board. He/she shall preside at all meetings of the Board, shall appoint such committees and subcommittees as may be necessary to carry out the purposes of the Board, and shall provide for the oath to be administered to all witnesses in cases before the Board. The Chairman shall be an ex-officio member of all committees and subcommittees so appointed.
- Section 3: The Vice-Chairman, in the absence or disability of the Chairman, shall perform all the duties and exercise all the powers of the Chairman.
- Section 4: The Department of Planning Secretary, or designee, shall record and maintain permanent minutes of the Board's proceedings, showing the vote of each member upon every question, or if absent or failing to vote, indicating that fact; shall keep records of its examinations and other official actions; shall provide for the keeping of audio cassettes of all hearings when required by these rules; shall record the names and addresses of all persons appearing before the Board; shall, subject to the Board and Chairman, conduct the correspondence of the Board and have notified all affected residents, notices of meetings or hearings of procedures; shall file said minutes and records in the office of the Board, which minutes and records shall be a public record. The Department of Planning Secretary shall be the custodian of the files of the Board and keep all records.

### **ARTICLE III.**

#### **MEETINGS**

- Section 1: Regular meetings shall be held on the First Thursday of each month at 3:00 PM, in the City Council Chambers at 200 North Fifth Street, Garland, Texas unless such day shall be a recognized holiday. In that event, the regular meeting shall be held at such other time as the Chairman may designate.
- Section 2: Regular meetings may be canceled by the Chairman when there are no cases pending. Notification must be given to members, however, not less than 24 hours prior to the time set for such meetings.
- Section 3: Special meetings may be called by the Chairman at his discretion, or upon the request of two (2) or more members, provided that 72 hours notice is given each member.
- Section 4: All meetings shall be open to the public.

Section 5: A quorum shall consist of three (3) regular members for any regular or special meeting, and is required for any decision, determination, or official action by the Board.

Section 6: A quorum of the Board shall be present at all public hearing and for the transaction of any business.

#### **ARTICLE IV.**

#### **ORDER OF BUSINESS**

Section 1: All meetings of the Board shall proceed on the following agenda:

- (A) Roll call and declaration of quorum.
- (B) Reading and approval of minutes of previous meeting.
- (C) Communications.

Failure of Applicant to Appear.

- (1) The Chairman may entertain a motion from the Board to postpone or dismiss a case for want of prosecution if the Applicant or his representative fails to appear.
  - (2) In cases which are dismissed for want of prosecution, the applicant will be furnished written notice of that action by the Secretary of the Board.
  - (3) The applicant shall have ten (10) days from the date of notice of dismissal to apply for reinstatement of the case. In such cases, applicant must file a written request with the Department of Planning Secretary for reinstatement. Reinstatement shall be at the discretion of the Board for good cause shown.
  - (4) If no application for reinstatement is properly and timely received, the ruling of the Board shall become final.
- (D) Public hearings for cases on agenda.
  - (E) Unfinished business.
  - (F) New business.
  - (G) Adjournment.

## ARTICLE V.

### **PROCEDURES ON APPEALS OR EXCEPTIONS**

- Section 1: A request for an exception shall be considered only upon the filing of an application to the Lake Ray Hubbard Appeals Board with the Planning Secretary.
- Section 2: The applicant shall provide all the information required on the Sublease Appeals application as well as any additional information that may be required by the Board to aid it in reaching a decision.
- Section 3: Upon acceptance of a application for appeal, the Department of Secretary, or designee, shall assign a case number to the application and schedule it for a public hearing to appear before the Lake Ray Hubbard Appeals Board the first available date in the order in which it was received.
- Section 4: Each application shall be accompanied by:

#### **Applicant**

- 1) A list of persons whom the applicant expects will testify at the public hearing concerning the application and a brief statement of the matters that the applicant anticipates will be covered in the testimony of each person.
- 2) The final survey map received by the Department of Planning.
- 3) A drawing of the area indicating the exception requested.
- 4) Letters of petition from adjoining property owners concerning this application (these are at the option of the applicant).
- 5) Copies of all reports, memoranda and exhibits that the applicant expects to present concerning this application.
- 6) The Board must receive notice of cancellation 48 hours prior to the scheduled hearing to be considered for reinstatement. Failure to properly notify the Board in a timely manner will disqualify the appeal for further consideration by the Board.

**City Staff**

- 1) A list of names and addresses of property owners that may be affected by the request of applicant.
- 2) All for/against forms received.
- 3) All reports, memoranda, exhibits, surveyor reports, photos (actual or aerial) and a report of an inspection of the property described in the application.

Section 6: The failure of the applicant to comply with the requirements of Sections 6 of Article V may result in an automatic continuance of the case at the discretion of the Chairman.

**ARTICLE VI.**

**NOTICES OF HEARINGS**

Section 1: The Department of Planning Secretary, or designee, shall give due notice of the place and time for hearing of the appeal application, not less than twenty (20) days prior to the hearing. Such notice shall state the name and address of the applicant, the name and address of the owner of the property, the location of the property, a brief statement of the nature of the appeal or application, and a for or against form. Such notice shall be sent to the applicant and all other persons who are owners of real property that may be affected by the appeal on that same street in said subdivision, which is the subject of the hearing and who have rendered their said property for city taxes as the ownership appears on the last city tax roll.

**ARTICLE VII.**

**PROCEDURES ON HEARINGS**

Section 1: At the time of the hearing, the applicant may appear in his own behalf or be represented by counsel or agent.

Section 2: All testimony at any public hearing shall be under oath, or by affirmation, administered by the Chairman.

Section 3: The applicant or his representative may make an initial statement outlining the nature of his request prior to introducing evidence.

Section 4: Any person who has an interest in the subject matter of the hearing shall be afforded an opportunity to present evidence, exhibits, and argument, and to question through the Chairman of the Lake Ray Hubbard Appeals Board. Witnesses on all relevant issues are

subject to the Chairman's imposition of reasonable limitations on the number of witnesses, and the nature and length of testimony and questioning.

Section 5: Evidence shall be presented in the following order:

- (A) Applicant presents evidence and witnesses, including an initial statement if desired;
- (B) Objectors present evidence, including initial statement if desired;
- (C) Board members may question City Staff, applicant's and objector's witnesses;
- (D) Rebuttal by objector's; and
- (E) Rebuttal by applicant.

Section 6: The Board shall not be bound by the strict rules of evidence, but it may exclude irrelevant, immaterial, incompetent, or unduly repetitious testimony or evidence that does not comply with these rules.

Section 7: The Chairman shall rule on all questions relating to the admissibility of evidence, which may be overruled by a majority of the Board.

## **ARTICLE VIII.**

### **Decisions**

Section 1: Final decisions shall be made by the Board within thirty (30) days from the date of the hearing.

Section 2: The Board may conduct its deliberations and vote on all matters in public session at the meeting in which evidence is concluded, unless the Board considers additional time for deliberation necessary. The Board may direct the City Staff to prepare draft findings of fact and conclusions reflecting the tentative findings and conclusions reached by the Board as a result of its deliberations. Such draft findings of fact and conclusions shall be made available to the applicant, objectors and all other interested persons at least seven (7) days before the meeting of the Board at which they are considered and action is taken with respect to the draft findings and conclusions. Upon presentation to, and consideration by the Board, said draft findings and conclusions may be amended by a motion duly made, seconded and approved by the Board;

- Section 3: A concurring vote of at least three (3) members of the Board shall be necessary to approve any action.
- Section 4: All deliberations of the Board shall be conducted, and all of its decisions shall be made, at a meeting that is open to the public.
- Section 5: All decisions of the Board shall be made at a public meeting on a motion duly made and seconded, and by the Chairman polling the membership by a roll call vote. The motion which decides the issue on any matter before the Board shall be to adopt the written findings of fact, and conclusions stating the reasons for the determination by the Board as submitted or as submitted and amended. If conditions are imposed in the granting of a variance or special exception such conditions shall be set out in the findings and conclusions.
- Section 6: Notice of the decision and a copy of the findings and conclusions adopted by the Board shall be given to the applicant, and other interested parties as soon as possible after the decision is reached.

## **ARTICLE IX.**

### **RECORDS**

- Section 1: A file of materials and decisions relating to each case shall be kept by the Department of Planning Secretary as part of the records of the Board.
- Section 2: All records of the Board shall be a public record.
- Section 3: Upon written request made to the Department of Planning Secretary, at least five (5) days following the public hearing, an audio cassette of the public hearing and the deliberations, shall be made available to any party making such request in writing, and the cost of such request shall be borne by the party requesting the copy. The cost of providing a stenographer shall be borne by the party making the request.

## **ARTICLE X.**

### **AMENDMENTS OF RULES**

- Section 1: These rules may be amended by a resolution adopted by an affirmative majority vote of the members of the Board.

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Section 2: The proposed amendment must be presented in writing at a regular or special meeting preceding the meeting at which the vote is taken.

The foregoing rules and regulations are hereby adopted by the Lake Ray Hubbard Appeals Board of the City of Garland, Texas, on March 4, 2010.