

## **Board of Adjustment Rules and Procedures**

### **I. Purpose.**

These Rules and Procedures are intended to implement the provisions of Bay City Ordinance 1667, titled Consolidated Hazard Area and Compatible Land Use Zoning Regulations for Bay City Regional Airport., and as codified in Chapter 18 Bay City Municipal Code.

- A. The ordinance designates the Bay City Council as the Board of Adjustment for the purposes of appeals to the decisions of the Administrative Agency.
- B. The rules and procedures herein provide specific rules of procedure for the Bay City Council when carrying out their duties as the Board of Adjustment.  
State Law Reference TLGC 241.036.

### **II. Appeal Request Procedures.**

- A. Any request for a decision shall first be made to the Administrative Agency.
- B. The Administrative Agency shall then make a decision upon that request based upon its knowledge of the Airport Zoning Ordinance and other relevant factors.
- C. Once the decision by the Administrative Agency has been communicated to the applicant, and other stakeholders, an aggrieved party, or affected taxpayer, may appeal that decision to the Board of Adjustment.
- D. Any appeal shall be made, no more than four weeks from the date of the decision to the Bay City Council in their capacity as the Board of Adjustment.
- E. Any appeal made to the Bay City Council in their capacity as the Board of Adjustment must be in writing, must state the reason for the requested appeal, and may provide additional documentation to support the request.
- F. At the request of an Appellant, the City Council acting as the Board of Adjustment, through the City Secretary and conforming with the Texas Open Meeting Act, shall set within a reasonable time a meeting place, date and time to hear the appeal. The setting of the meeting place, date and time will be controlled by the Board of Adjustment. The Appellant may provide input about the setting of the meeting.

### **III. Board of Adjustment Meeting Procedures.**

- A. When the meeting at the announced place, date and time is called to order by the City Council the Bay City Mayor, or their designee, acting as the presiding officer will take the following actions:
  - a. Call for a quorum of the Bay City Council—4 of the 6 members of the city council must be present to establish a quorum.
  - b. The presiding officer shall call for a nomination of the chair of the Board of Adjustment.
  - c. The presiding officer shall call for a vote to determine the Chair of the Board.
- B. After the quorum is established and the Chair is selected the Board of Adjustment will address any business that is properly before it.
- C. Board of Adjustment Meeting Process:
  - a. The chair shall first designate a presenter who shall announce the appeal before the board.

- b. The presenter shall announce all filed information and call for any further information that is not already a part of the board record. The Chair may call on an appropriate city official to announce what has been provided by the appellant.
    - i. If the appellant, or another party, presents new written information the board may recess or adjourn to a future date to consider the added information.
  - c. Appeal Procedure Explanation:
    - i. The city representative shall present the reasons for the Administrative Agency's decision.
    - ii. The appellant shall present their argument about why the decision should be overturned.
    - iii. The city may provide rebuttal.
    - iv. The appellant may make any closing arguments.
    - v. The city may make closing arguments.
    - vi. If necessary, the Board of Adjustment may go into closed session with their attorney or other experts.
    - vii. If the Board of Adjustment was in a closed session, they shall return open session and announce a decision. Or, if needed, a future date for announcing a decision.
  - d. The Board of Adjustment shall take into consideration the following five factors when deciding whether a decision by the Administrative Agency was appropriate:
    - i. Any special circumstances or conditions of the requested action or variance.
    - ii. Whether a literal application or enforcement of the regulation would result in practical difficulty or undue hardship to the appellant if the Administrative Agency's decision is upheld.
    - iii. The probable effect of a granted variance on the public health, safety, convenience, and welfare in the vicinity of the area affected by the requested variance.
    - iv. Whether the denial or granting of a variance would (a) result in substantial justice or injustice being done, (b) be contrary to the public interest, and (c) be in accordance with the spirit of the Ordinance.
    - v. Any and all other facts the Board of Adjustment may deem relevant.
  - e. The Board of Adjustment shall not overturn a decision by the Administrative Agency unless the Board finds that:
    - i. The granting of appeal will not be detrimental to the public health, safety, welfare, or be injurious to others, and
    - ii. The granting of the appeal will not have the effect of preventing the orderly enforcement of the Airport Zoning ordinance.
- D.** After the decision is announced by the Board of Adjustment the matter is closed and the Administrative Agency shall carry out the decision of the Board.
- E.** Any appeal of the decision of the Board of Adjustment shall be made by appeal to the appropriate court of competent jurisdiction.
- State Law Reference TLGC 241.041