

## **LEE'S SUMMIT BOARD OF APPEALS PROCEDURES FOR HEARINGS**

Section 16-100 of the Lee's Summit City Code adopted the INTERNATIONAL PROPERTY MAINTENANCE CODE (IPMC) as the property maintenance code for the City, as amended by certain sections in Chapter 16 of the City Code. Section 111.4.1 of the IPMC requires that the Board of Appeals shall adopt and make available to the public procedures under which a hearing will be conducted. Section 111.4.1 further states that such procedures shall not require compliance with strict rules of evidence, but shall mandate that only relevant information be received. This document serves as the procedures for the conduct of hearings as required by Section 111.4.1 of the IPMC.

A quorum of four members shall necessary to hear and render a decision on an appeal.

The following procedures shall be followed for contested hearings. These procedures may be modified and adjusted as the Board deems appropriate for a particular hearing, upon an affirmative vote of the Board at the meeting during which a hearing is conducted. Legal counsel for the Board shall be consulted to verify that such adjustments by the Board satisfy all applicable legal requirements.

### **PROCEDURES FOR CONTESTED HEARINGS**

1. Chairperson swears-in all witnesses testifying by oath or affirmation.
2. City staff shall describe the nature of the case, the names of the parties, the property in question, and the decision that has been appealed.
3. **Respondent's testimony**, showing basis for decision being appealed and stating the Respondent's case on the appeal
  - A. Require witnesses to state names, addresses
  - B. Mark all exhibits by number (documentary and physical)
  - C. Testimony can be received in general narrative fashion, or a question-and-answer format may be used if the Respondent is represented by legal counsel
  - D. Board members may ask questions of witnesses at any time
4. Allow Appellant an opportunity to ask factual questions of Respondent. Appellant and Respondent shall not engage in argument, and the Chair may limit or terminate questioning if this time is used for arguments rather than to address factual questions.
5. **Appellant's testimony**

A-D. (Same procedures as above for Respondent's testimony)

6. Allow Respondent an opportunity to ask factual questions of Appellant. Respondent and Appellant shall not engage in argument, and the Chair may limit or terminate questioning if this time is used for arguments rather than to address factual questions.
7. Allow Respondent's rebuttal of Appellant's evidence.
  - A. Rebuttal is not an opportunity to rehash prior testimony, but instead shall be an opportunity to respond to and counter Appellant's evidence and testimony.
8. Allow Appellant's rebuttal of Respondent's evidence.
9. The Board may ask any other questions that the Board may have. The Board may allow other interested persons to testify, to the extent that such testimony is relevant to the appeal
10. At close of evidence, the Board may do any one of the following:
  - A. Grant the appeal, reverse the decision below and order the relief requested by Appellant.
  - B. Deny the appeal, affirm the decision below, and deny the relief requested by Appellant.
  - C. Continue the matter for any valid reason stated on the record, including for the purpose of gathering additional information from either or both parties or for further time for deliberation by the Board.
  - D. In deciding an appeal, the Board may affirm or reverse, in whole or in part, or modify the administrative decision under review, but may not exceed the authority of the City official who made the decision.

## **GENERAL PROCEDURAL ITEMS**

1. The Chairperson may enforce reasonable time limits to prevent repetitive testimony and discussion, and encourage the presentation of only relevant testimony.
2. The appellant, or a party in opposition, may appear in person or be represented by counsel or an agent.

3. If the hearing has been closed and, in the course of discussion and deliberation at the same meeting, the Board seeks additional evidence or testimony from any participant, the Board may re-open the hearing to receive such evidence and testimony.
4. Each side shall proceed without interruption by the other and all arguments and pleadings shall be addressed to the Board. No argument between applicant and opponents is permitted. The purpose of cross-examination is to gather facts and testimony for the Board, and not to engage in argument. The chair may limit cross-examination between applicant and opponents to avoid the presentation of arguments and interruptions or other inappropriate behavior.

Approved by the Board of Appeals on August 19, 2020.