

**HIDALGO COUNTY
BOARD OF BUILDING LINE ADJUSTMENTS
OPERATING POLICIES AND PROCEDURES**



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HIDALGO COUNTY BOARD OF BUILDING LINE ADJUSTMENTS

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**HIDALGO COUNTY
BOARD OF BUILDING LINE
ADJUSTMENT OPERATING POLICIES
AND PROCEDURES**

A. PURPOSE AND AUTHORITY

Pursuant to Texas Local Government Code Section 233.035, the Commissioner's Court of Hidalgo County has established the Hidalgo County Board of Building Line Adjustment ("the Board"). The Board shall hear and decide appeals in cases in which, because of exceptional narrowness, shallowness, shape, topography, existing building development, or another exceptional and extraordinary situation or condition of a specific piece of property, the strict application of a building line established under Texas Local Government Code Chapter 233 Subchapter B would result in peculiar and exceptional difficulties or hardships to the owner of the property. On appeal, the Board may authorize a variance from the strict application of the regulation, under conditions established by the Board, to relieve the hardship or difficulty that relief can be granted without substantially impairing the intent and purpose of the building line or setback line.

B. MODIFICATIONS AND VARIANCES

Subject to appropriate conditions and safeguards, the Board may modify or vary the regulations affecting building or setback lines in cases in which unnecessary hardship may result from a literal enforcement of those regulations, in order to do substantial justice and to observe the purpose of the regulations in protecting the public welfare and safety. Moreover, with appropriate safeguards, the Board may authorize the construction of an improvement or a structure that may encroach on a building or setback line. However, if the County proceeds with the projected improvements of the affected road within the time provided by Texas Local Government Code Section 233.034 (c), the owner of the improvement or structure must remove it at no expense to the County.

C. APPOINTMENTS, TERMS, VACANCIES, MEETINGS, AND MINUTES

The Board shall be composed of five freeholders of the County. Board members shall be appointed by the Hidalgo County Commissioners Court for staggered terms of two years, with two members' terms expiring in one year and three members' terms expiring the next year. However, in making the initial appointments, the Commissioners Court shall designate two members for one-year terms and three members for two-year terms. The Commissioners Court may remove a member for cause on a written charge after a public hearing. The Commissioners Court shall fill a vacancy on the Board for the unexpired term of the member whose term became vacant.

Vacancies in the office of member of the Board, whether by death, resignation or removal from office, shall be filled by a majority vote of the Court for the un-expired term.

Members may be removed (i) for cause, or (ii) by the Court following a recommendation received from the Chairman or Three Members pursuant to these Operating Policies and Procedures.

The Board shall elect its own chairman and shall adopt rules of procedure. The meetings of the Board

shall be open to the public. The Board shall keep minutes of its proceedings that shall be filed in the Board's office. These minutes constitute a public record.

Members of the Board shall serve without compensation.

D. OFFICERS, QUORUM, AND MEETINGS

- I. The Chairman and Vice-Chairman of the Board shall be elected by a majority vote from its membership at its initial meeting. At the first meeting of each calendar year, the Board will elect a Chairman and Vice-Chairman and such other officers as it may deem appropriate. The Chairman will act as presiding officer over all meetings of the Board, or any committee of the Board, and will execute all documentation that may be required to be executed on behalf of the Board. The Vice-Chairman will fulfill the duties of the Chairman during the absence of the Chairman. There is no limitation on the number of terms any member may serve as an officer.
2. ~~Three (3) or more members will constitute a quorum. Three (3) or more members will constitute a quorum. No meeting shall be conducted without a quorum. As a matter of public policy and as required by the Rules the SAB shall be subject to the Texas Open Meetings Act and shall be required to post public notice of any meeting at least seventy-two (72) hours before any meeting is called to order.~~
3. *Meetings may be conducted by videoconference call. A quorum must be physically present at one location. Notice of a meeting to be held by videoconference call must specify the location where a quorum of the governmental body will be physically present. Any member who participates via zoom, including the Chairman, is counted as present and may vote, except if audio or video connection is lost. While on video conference, each participant's face must be clearly visible and voice audible to each participant and to members of the public. At any time that the meeting is no longer visible or audible to the public, the meeting must recessed until the problem is resolved. If not resolved within 6 hours, the meeting must be adjourned. Audio and video quality must meet the standards as set forth by the Department of Information Resources. No meeting shall be conducted without a quorum. As a matter of public policy and as required by Section 233.025 of the Texas Local Government Code, the Board shall be subject to the Texas Open Meetings Act and shall be required to post public notice of any meeting at least seventy-two (72) hours before any meeting is called to order.*
4. Minutes shall be kept of the Board's proceedings in accordance with Texas Local Government Code Section 233.035 requirements. The minutes of Board meetings constitute a public record.
5. Regular Board meetings are scheduled for ~~5:30 p.m. on the first Thursday~~ *4:00 pm on the third Tuesday* of each month in the Commissioner's Courtroom, 100 E. Cano, 1st Floor, Edinburg, Hidalgo County, Texas. A regular meeting may be re-scheduled or a special meeting called by the Planning Administrator, Chairman or three members of the Board,

provided that the meeting is called in compliance with posting requirements as defined herein. The Hidalgo County Planning Department will be responsible for preparation and posting of all agendas for all Board meetings. The Chairman may cancel regular meetings if the Planning Department notifies the Chairman that there have been no items submitted for consideration to the Planning Department, which are ready for review by the Board.

E. ATTENDANCE

In order to ensure an expedient County review process for the public regarding land development and utility connections, it is extremely important that members are available for meetings. Therefore, an exceptional attendance record is expected from all members. Except in the case of an emergency, ~~a member who is absent more than three (3) consecutive times from any regular or special meeting of said Board, or who is absent from said meetings more than fifty (50) percent of the time during any one calendar year, without a legitimate excuse to be determined by the majority of any such Board, shall be automatically dropped from membership~~ *a member who misses 3 consecutive meetings or 50% of meetings in a 12-month period is automatically removed from the Board. The Chairman has discretion to ask the Commissioners Court to remove a member who is frequently absent which results in a burden to the other members, as well as a member who is absent or who only appears via Zoom and makes it difficult to achieve the required quorum.*

The Board member shall notify the Chairman, Vice Chairman, or the Planning Administrator no later than 4:00 2:00 p.m. prior to any regular or special meeting. When a vacancy exists due to failure to comply with attendance rules, the Court may fill the vacancy at its next regularly scheduled meeting in the manner provided in the Rules. Additionally, the Chairman is authorized to review attendance records and recommend the removal of any Board member whose attendance record is less than desirable and which has created a burden to the remaining members or has resulted in an inability to call meetings to order for a lack of quorum. The Chairman's recommendation will be submitted to the Court for its consideration.

F. CONFLICT OF INTEREST

Members of the Board are subject to the conflict-of-interest provisions as outlined in this section.

1. A person has an interest in the issue being considered if the person:
 - a. has an equitable or legal ownership interest in the tract or property;
 - b. acts as a developer of the tract or property;
 - c. owns voting stock or shares of a business entity that:
 1. has an equitable or legal ownership interest in the tract or property; or
 2. acts as a developer of the tract or property; or
 3. receives in a calendar year money or anything of value from a business entity described by subdivision c.

A person also is considered to have an interest in the issue being considered if the person is related within the second degree by consanguinity or affinity, as determined under Chapter 573, Government Code, to a person who, under subsection B, has an interest in the matter.

If a member of the Board has an interest in the issue being considered, the member shall file, before a vote or decision regarding the approval or denial of a variance, an affidavit with the county clerk stating the nature and extent of the interest and shall abstain from further participation in the matter. *In accordance with Section G.8.G of the Subdivision Rules and*

Sections 232.034 of the Local Government Code, the affidavit is required to be filed with the County Clerk prior to the meeting in which the conflict of interest arises or as soon as practical after the conflict is discovered. The affidavit must be filed with the county clerk. If a member first learns of a conflict during a meeting of the Board, the member shall immediately announce on the record the existence and nature of such conflict and shall thereafter refrain from any participation in the consideration of the matter, and shall, as soon as practical following the meeting, file the required affidavit.

The Court may, in its sole discretion, remove a member of the Board from office upon a finding by the Court that a member of the Board has violated any provision of this section.

G. PROCEDURES FOR PLACING ITEMS ON BOARD AGENDA

1. Applicant shall request in writing the reason for the variance request and provide supporting documentation for said request. No item shall be placed on an agenda for consideration by the Board until the item has been reviewed and recommendations given by all applicable County departments. Said recommendations must be noted on the item prior to placement on a Board agenda. The item will be placed on a Board agenda and acted upon by the Board within forty- five (45) days following the receipt by the Planning Department of the item containing all requisite approvals. Failure of the Board to act to approve, conditionally approve or disapprove an item within such 45-day period shall result in the item being deemed approved.
2. The Board may take the following actions with respect to an item presented to it for consideration: a) approve the item; b) approve the item subject to the applicant meeting certain conditions; c) reject the item; or d) table the item or take no action on the item and request that the applicant or Planning Department provide the Board with additional information, data, etc. A notation of the approval, approval with conditions or rejection of the item by the Board shall be noted on the face of the item and signed by the Chairman.
3. Items conditionally approved by the Board shall be referred to the Planning Department for further review, and, except as herein provided to the contrary, shall be allowed to proceed with construction only when all conditions required by the Board have been met. If the Board issues a conditional approval of an item, the Board shall set out in detail the conditions which must be complied with in order to allow the item to proceed for construction.
4. Except as herein provided to the contrary, items rejected by the Board shall be referred back to the Planning Department.
5. The Planning Department shall issue notice to the applicant in writing of any action taken on an item within 10 business days following the action by the Board. The Planning Department shall maintain a log of notices issued pursuant to this section which shall note the person to whom notice is delivered, the date of delivery, the manner of deliver, and other information deemed necessary by the Planning Department.

H. PROCEDURES FOR APPEALS

1. If the applicant disputes the conditional approval or rejection of an item by the Board, such action may be appealed to the Commissioners Court in compliance with this paragraph. Written notice of the appeal, together with a detailed written explanation of the reasons why the decision of the Board is incorrect, must be received by the Planning Department on or before the 30th day following the action or order adopted by the Board. Upon the filing of such appeal, the Planning Department shall cause the item to be placed on the next available Court agenda for consideration and action by the Court. Failure to file an appeal with the Planning Department within the prescribed period shall constitute the applicant's acceptance of the conditions, or the bases of the rejection, as applicable.
2. If the applicant disputes the conditional approval or rejection of an item that has been appealed to the County Commissioners Court, such action may be appealed to the District Court or other Court with proper jurisdiction. Written notice of the appeal, together with a detailed written explanation of the reasons why the decision of the County Commissioners Court and Board is incorrect, must be received by District Court or other Court with proper jurisdiction on or before the 30th day following the action or order adopted by the Court. The appellant must execute an appeal bond in an amount fixed by the court.