

# City of West Linn

## HISTORIC REVIEW BOARD

### POLICIES AND PROCEDURES

**Agenda.** The agenda for each regular and special Historic Review Board meeting shall be available to the public at least 10 days prior to the hearing date.

**Americans with Disabilities Act (ADA).** All Historic Review Board Agendas shall include the following language:

If any member of the public has a disability that would affect his/her attendance and/or participation in any and all public proceedings, which would require special accommodation, please contact the City Manager to submit requests and disability documentation.

**Annual Review of Board.** The Historic Review Board shall hold an annual work session at the end of each calendar year to review accomplishments and issues from the past year, set goals, and establish a monthly schedule of agenda items for the next year.

**Attendance.** Board members will make a reasonable effort to inform the Chair and Planning Staff if they are unable to attend any meeting. Additionally, the Chair will inform the Vice-Chair and Planning Staff regarding any absence by the Chair.

**Bias and Disqualification.** Any proponent, opponent, or other party interested in a quasi-judicial matter to be heard by the Board may challenge the qualification of any Board member in such hearing and decision. Such challenge must state facts relied upon by the party relating to a Board member's bias, prejudgment, personal interest, or other facts from which the party has concluded that the Board member will not participate and make a decision in an impartial manner. Such challenges shall be made prior to the commencement of the public hearing. The Chair shall give the challenged member an opportunity to respond. Any challenge concerning the qualifications or bias of a Board member by any party (who has standing) in the proceeding shall require a vote of the Board on the challenge. The Board member being challenged shall not vote unless required by the law of necessity to do so. Such challenges shall be incorporated into the record of the hearing.

If the Historic Review Board determines that the member is biased, it may disqualify the member by majority vote from participating in a decision on the matter. A Board member who has been disqualified from participating in a decision may participate in the proceeding as a private citizen if the Board member is a party with standing.

**Bylaws.** Laws or rules governing the internal affairs of an organization. A regulation made by a local authority having legal effect only in the area governed by that authority.

**Board Rules.** The Board shall review its rules as needed and at least once every year. Amendments shall be adopted by a majority vote. The Board has an obligation to be clear and simple in its procedures and consideration of the questions coming before it. The Board rules are not intended to replace or supersede any applicable federal or state laws or regulations, City ordinances or policies, or provisions of the City Charter.

**Communication with Staff.** Board members shall respect the separation between policy-making and administration by:

Limiting inquiries and requests for information from staff or department heads to those questions that may be answered readily or with only the most minimal of research.

Questions requiring significant staff time or resources (eight hours or more) shall require the approval of the Chair or the majority approval of the Board. All written information given by staff to one Board member should be distributed to all the Board members.

Limiting individual contacts with City officers and employees so as not to influence staff decisions or recommendations, to interfere with their work performance, to undermine the authority of supervisors, or to prevent the full Board from having benefit of any information received. However, questions relating to factual issues regarding quasi-judicial land use hearings are encouraged so as to alert staff to significant issues important to the Historic Review Board acting as a quasi-judicial hearing body, and allow staff to research these issues and be prepared with answers at the hearing.

Respecting roles and responsibilities of staff when and if expressing criticism in a public meeting or through public electronic mail messages. Staff shall have the same respect for the roles and responsibilities of Board members.

All informational material of major significance requested by individual Board members will be submitted by staff to the entire Board with a notation indicating which Board member requested the information.

As a demonstration of mutual respect, professionalism and courtesy between Board members and staff, written or oral communication should use formal business address in most instances. Board members should refer to staff either as Mr. or Mrs./Ms. followed by their last name or by their job title. Staff should refer to Board members as Mr. or Mrs./Ms. followed by their last name or Chair as appropriate. By mutual consent, individual Board and staff members may choose to address each other more informally. The overall policy should, however, be one of professional courtesy.

**Conferences and Seminars.** Members of the Board are urged to educate themselves about historic preservation and quasi-judicial proceedings. To that end, Board members are urged to attend conferences, training seminars, or meetings. Such educational opportunities shall be approved by the Board, subject to budgetary constraints. Upon the Board members return from attending a conference, training seminar, or meeting, the Board member will give a brief oral report to all members of the Board unless the majority attended the same function, or if requested by any Board member who did not attend the conference, training seminar, or meeting.

**Conflict of Interest.** Generally, conflicts of interest arise in situations where a Board member, as a public official deliberating in a quasi-judicial proceeding, has an actual or potential financial interest in the matter before the Board. Under state law, an actual conflict of interest is defined as one that would be to the private financial benefit of the Board member, a relative, or a business with which the Board member is associated. A potential conflict of interest is one that could be to the private financial benefit of the Board member, a relative or a business with which the Board member is associated. A relative means the spouse, children, siblings, or parents of the public official. A Board member must publicly announce potential and actual conflicts of interest, and, in the case of actual conflict of interest, must refrain from participating in debate on the issue or from voting on the issue unless allowed by state law.

**Discussion.** During discussion phases of Board deliberations, individual Board members shall request recognition by the Chair to speak by use of the electronic light system within the hearing room, or by other organized method determined by the Chair if the light system is non-operational or unavailable. The Chair should recognize individual Board members requesting to speak in the chronological order of the request, while ensuring that each Board members has an opportunity to speak.

**Emergency Meetings.** In the case of an emergency, an emergency meeting may be called by consent of all available Board members upon such notice as is appropriate to the circumstances. The minutes of the emergency meeting shall describe the emergency justifying less than 24 hours notice. The City shall attempt to contact the media and other interested persons to inform them of the meeting.

**Exhibits.** Exhibits presented before the Board in connection with its deliberations on a legislative, quasi-judicial, or other substantive matter shall be accepted by the Board and made part of the record. The exhibit shall be marked for identification and referenced in the minutes. The exhibit or a copy thereof shall be provided to the meeting recorder.

**Ex Parte Contacts and Disqualification.** For quasi-judicial hearings, Board members will endeavor to refrain from having ex parte contacts relating to any issue of the hearing. Ex parte contacts are those by a party on a fact in issue under circumstances that do not involve all parties to the proceeding. Ex parte contacts can be made orally when the other side is not present, or they can be in the form of written information that the other side does not receive.

If a Board member has ex parte contact prior to any hearing, the Board member will reveal this contact at the meeting and prior to the hearing. The Board member shall describe the substance of the contact and the presiding officer shall announce the right of interested persons to rebut the substance of the communication. The Board member also will state whether such contact affects the Board member's impartiality or ability to vote on the matter. The Board member must state whether he or she will participate or abstain.

For quasi-judicial hearings, a Board member may be disqualified from the hearing by a majority vote of the Board. The Board member disqualified shall not participate in the debate, shall step down from the dais for that portion of the meeting, and cannot vote on that motion.

For quasi-judicial hearings, a Board member who was absent during the presentation of evidence cannot participate in any deliberations or decision regarding the matter unless the Board member has reviewed all the evidence and testimony received.

While a site visit is an ex-parte contact, Board members are encouraged to make such visits and take a detailed look at the site, under the condition that: 1) the Board member shall not discuss his or her visit with any party; and, 2) the Board member shall disclose the visit and any observations made at the public hearing.

**Filling Vacancies on the Board and Election of Officers.** (See attached Exhibit "A," Municipal Code sections 2.060 and 2.070.)

**Government Standards and Practices Board Requirements and Reporting.** Board members shall review and observe the requirements of the State Ethics Law (ORS 244.010 to 244.390) dealing with use of public office for private financial gain.

Board members shall give public notice of any conflict of interest or potential conflicts of interest and the notice will be reported in the meeting minutes. In addition to matters of financial interest, Board members shall maintain the highest standards of ethical conduct and assure fair and equal treatment of all persons, claims, and transactions coming before the Board. This general obligation includes the duty to refrain from:

1. Disclosing confidential information or making use of special knowledge or information before it is made available to the general public.
2. Making decisions involving business associates, customers, clients, and competitors.
3. Repeated violations of Board Rules.
4. Requesting preferential treatment for themselves, relatives, associates, clients, coworkers, or friends.

5. Seeking employment of relatives with the City.
6. Actions benefiting special interest groups at the expense of the City as a whole.
7. Expressing an opinion that is contrary to the official position of the Board without so stating.

In general, Board members shall conduct themselves so as to bring credit upon the government of the City by respecting the rule of law, ensuring non-discriminatory delivery of public services, keeping informed concerning the matters coming before the Board and abiding by all decisions of the Board, whether or not the member voted on the prevailing side.

**Legal Advice.** Requests to the City Attorney for advice requiring legal research shall not be made by a Board member except with the concurrence of the majority of the Board or of the Chair. Before requesting research or other action by the City Attorney, the Board is encouraged to consider consulting with the Planning Director to ascertain whether the request or action can be accomplished more cost-effectively by alternate means. Outside a Board meeting, a Board member shall make requests of the City Attorney through the Planning Director.

**Meeting Staffing.** Planning Staff will attend all Board meetings. Staff may make recommendations to the Board and shall have the right to take part in all Board discussions but shall have no vote. The City Attorney or his/her designee will attend Board meetings as needed. The Planning Director shall designate a staff or contract person as a meeting recorder who will attend all Board meetings and keep the official journal (minutes) and perform such other duties as may be needed for the orderly conduct of meetings.

**Meeting Times.** The Board shall meet regularly on the third Tuesday of each month at 6:30 p.m. The Board may meet prior to the meeting for a work session, if the Chair in consultation with staff deems it prudent to have a work session for a specific amount of time not to exceed 30 minutes. The work session shall be open to the public. Board meetings that exceed three and a half hours in length shall be continued to the next scheduled meeting unless extended by majority vote of the Board. After approximately 90 minutes in session, the Board may break for 10 minutes. The Board may schedule special meetings as needed at its discretion.

**Members of the Public Addressing the Board.** Each person addressing the Board shall first complete a testimony form and give it to the meeting recorder or Vice-Chair prior to discussion of an item on the agenda.

When called by the Board Chair, those wishing to address the Board shall come to the designated area and state their name and address. They shall limit their remarks to three minutes unless the Board decides prior to a particular agenda item to allocate more or less time. They should address all remarks to the Board as a body and not to any member thereof.

No person, other than the Board and the person having the floor, shall be permitted to enter into any discussion, either directly or through a member of the Board, without the permission of the Chair. During all hearings, questions and comments from the public shall be permitted at the discretion of the Chair. No member of the public will be allowed to speak more than once on a particular agenda item, unless requested by the Chair, except that an applicant in a quasi-judicial hearing shall have the right to rebut all comments from the public, board, or staff pursuant to specific rules set forth for such rebuttal.

At the conclusion of an individual's testimony, a member of the public may be questioned by individual board members regarding their testimony. Questions from the Board should be for the purpose of ascertaining additional facts and opinions from the public, not for argument or dispute. The Chair shall have the authority to set a time limit for responses to questions should such a limit become necessary.

The Board shall maintain a forum allowing citizens to comment on City issues and Board decisions which relate to historic preservation. Any person making personal, offensive, or slanderous remarks, or who become boisterous, threatening, or personally abusive while addressing the Board may be requested to leave the meeting. The Chair has the authority to preserve order at all meetings of the Board, to cause the removal of any person from any meeting for disorderly conduct, and to enforce the rules of the Board. The Chair may request the assistance of Sergeant-at-Arms to restore order at any meeting.

**Minutes.** Minutes shall be prepared with sufficient detail to meet their intended uses. Verbatim minutes are not required.

The minutes of meetings of the Board shall comply with provisions of ORS 192.650 by containing the following information at a minimum:

1. The names of Board members and staff present.
2. All motions, proposals, resolutions, orders, ordinances, and measures proposed and their disposition.
3. The results of all votes and the vote of each member by name;
4. The substance of the discussion on any matter.
5. Reference to any document discussed at the meeting.

The Board may amend the draft minutes to correct any factual errors in them. Upon receipt of the minutes in the Board agenda packet, the Board members should read and have ready in writing any changes to the minutes. The Board will discuss and vote on any changes at its next earliest meeting. After any changes are approved, the Planning Director (or his/her designee) will prepare a final draft copy of the minutes that will be voted on at a subsequent meeting.

Once the final draft is adopted, under no circumstances shall the minutes be subsequently changed except by unanimous vote of the Board.

**Motions.** When a motion is made, it shall be clearly and concisely stated by its mover. Board members are encouraged to exercise their ability to make motions and to do so prior to debate in order to focus discussion on an issue and speed the Board's proceedings. The Presiding Officer will state the name of the Board member who made the motion and the name of the Board member who made the second. When the Board concurs or agrees to an item that does not require a formal motion, the Presiding Officer will summarize the agreement at the conclusion of discussion. The following rules shall apply to motions during proceedings of the Board:

- A motion may be withdrawn by the mover at any time without the consent of the Board.
- If a motion does not receive a second, it dies. Certain motions can proceed without a second, including nominations, withdrawal of motion, and agenda order.
- A motion that receives a tie vote fails.
- A motion to postpone to a certain time is debatable and amendable, and may be reconsidered at the same meeting. The question being postponed shall be considered at a later time at the same meeting or at a set specified time in the future. A motion to postpone is both debatable and amendable.
- A motion to call for the question shall close the debate on the main motion and is undebatable. This motion must receive a second and fails without a majority vote. Debate is reopened if the motion fails.
- A motion to amend can be made to a motion that is on the floor and has been seconded. An amendment is made by inserting or adding, striking out, striking out and inserting, or substituting.
- Motions that cannot be amended include motion to adjourn, agenda order, lie on the table, reconsideration, and take from the table.
- A motion to amend an amendment is in order.
- Amendments are voted on first, then the main motion as amended.
- The Board will discuss a motion only after the motion has been moved and seconded.
- The motion maker, presiding officer, or meeting recorder should repeat the motion prior to voting.

- The Board Chair will originate all procedural motions.
- A motion to continue or close a public hearing is debatable.
- A point of order, after being addressed by the presiding officer, may be appealed to the body.

**News Media.** The Board recognizes the important role of the news media in informing the public about the decisions, activities, and priorities of government. Workspace shall be reserved for members of the press at Board meetings so that they may observe and hear proceedings clearly. The terms “news media,” “press,” and “representative of the press” for the purpose of these rules are interchangeable and mean someone who:

Represents an established channel of communication, such as a newspaper or magazine, radio or television station; and regularly reports on the activities of government or the governing body.

It is inappropriate to comment to the news media or through any communications medium on an issue before or during the decision-making process, especially if the issue is a quasi-judicial matter.

**Order and Decorum.** A law enforcement officer of the City may be sergeant-at-arms of the Board meetings. The sergeant-at-arms shall carry out all orders and instructions given by the Chair for the purposes of maintaining order and decorum at the Board meeting. If the sergeant-at-arms determines that the actions of any person who violates the order and decorum of the meeting constitutes a violation of any provision of the West Linn Municipal Code, the sergeant-at-arms may place such person under arrest and cause such person to be prosecuted under the provisions of the Municipal Code, or take other appropriate action as outlined in the West Linn Official Police Manual Revised.

Any of the following shall be sufficient cause for the sergeant-at-arms to, at the direction of the Chair, or by a majority of the Board present, to remove any person from the Board chamber for the duration of the meeting:

1. Use of unreasonably loud or disruptive language.
2. Making of loud or disruptive noise, including applause.
3. Engaging in violent or distracting action.
4. Willful injury of furnishings or of the interior of the Board chambers.
5. Refusal to obey the rules of conduct provided herein, including the limitations on occupancy and seating capacity.



6. Refusal to obey an order of the Chair or an order issued by a Board member that has been approved by a majority of the Board present.

Before the sergeant-at-arms is directed to remove any person from a Board meeting for conduct described in this section, that person shall be given a warning by the Chair to cease his or her conduct. If a meeting is disrupted by members of the audience, the Chair or a majority of the Board present may declare a recess and/or order that the Council chamber be cleared.

**Order of Business.** The Chair shall have the authority to arrange the order of business as is deemed necessary to achieve an orderly and efficient meeting. In general, the order of business will be as follows:

- A. Call to Order
- B. Minutes
- C. Public Hearings
- D. Business from the Historic Review Board
- E. Report from the Staff

**Historic Review Board Testimony.** The Historic Review Board was established to act as a hearing body and render decisions on certain types of projects listed in Section 99.060 D of the Community Development Code, and to make recommendations to the Planning Commission and/or the City Council on historic resources issues. In an effort to maintain the impartiality of the Historic Review Board, especially in cases where issues can be remanded by the Planning Commission or City Council back to the Historic Review Board for review, the following rules are established. For legislative land use matters before the Planning Commission or the City Council, Historic Review Board members may testify as a Historic Review Board member, as a Board representative if so designated by the Board, or as a citizen. For quasi-judicial hearings or petitions for review before the Board, Board members, who have participated in the preceding Board decision, may not testify before the Planning Commission or City Council on the respective matter unless they are designated by the Board to do so.

**Presiding Officer.** The Chair shall be the Presiding Officer and conduct all meetings, preserve order, and enforce the rules of the Board. The Vice-Chair shall preside in the absence of the Chair and shall receive and organize public testimony forms received during the meeting. The Presiding Officer shall not be deprived of any of the rights and privileges of a Board member except that the Presiding Officer shall only vote after all other members of the Board have voted. In case of the absence of the Chair and the Vice-Chair, Planning Staff shall call the meeting to order and the Board shall elect a chairperson for the meeting by majority vote.

**Quasi-Judicial Hearing.** Conduct of quasi-judicial hearings shall conform to the requirements of ORS 197.763 and the West Linn Community Development Code including, but not limited to the following:

1. The Chair shall announce prior to opening the hearing the nature of the matter to be heard as it is set forth on the agenda and the procedure to be followed for the hearing.
2. The Chair shall give notice that failure to address a criterion or raise any other issue with sufficient specificity precludes an appeal to the Land Use Board of Appeals on that criterion or issue.
3. Discussion of jurisdiction and impartiality of the Board.
4. Staff report on the application (including summary of additional correspondence) and initial Board questions for staff.
5. Applicant's presentation. (20 minutes)
6. Testimony in support of the application. (3 minutes each)
7. Testimony in opposition to the application. (3 minutes each)
8. Neutral testimony. (3 minutes each)
9. Applicant's rebuttal testimony. (10 minutes)
10. Questions from the Board to staff, and staff response to testimony.
11. Closure of public hearing, no further information from the audience.
12. Discussion by Board and decision.
13. The Board shall adopt findings employing staff and the City Attorney as necessary in the preparation and adoption of the findings. The Board may, at its discretion, direct the Chair to sign the decision and findings, or it may continue the hearing to consider a draft decision and findings at a subsequent date.

If there are objections to the jurisdiction of the Board to hear a matter, the Chair shall terminate the hearing if the inquiry results in substantial evidence that the Board lacks jurisdiction, or the procedural requirements of any code or ordinance provision were not met.

The Board members should avoid conduct during a hearing that can be construed or misinterpreted as conducting private deliberations shielded from public view.

**Public Records.** The disposition of public records created or received by Board members shall be in accordance with Oregon Public Records Law. Written information incidental to the official duties of a member of the Board including electronic mail messages, notes, memos, and

calendars (e.g., “day timers”) are public records and are subject to disclosure under the Public Records Law.

**Quorum.** The quorum requirement for the conduct of Board business is a majority of members of the Historic Review Board. If a Historic Review Board member is disqualified from voting for any reason, steps down from the dais, and remains in the room, then they shall be still considered as part of the quorum even though not voting.

**Reconsideration of Actions Taken.** A member who voted with the majority may move for a reconsideration of an action at the same meeting. The second of a motion may be a member of the minority. Once a matter has been reconsidered, no motion for further reconsideration shall be made without unanimous consent of the Board.

**Representing the City.** When a member of the Historic Review Board represents the City before another governmental agency, before a community organization or media, the official should first indicate the majority position of the Board. Personal opinions and comments may be expressed only if the Board member clarifies that those statements do not represent the position of the Board.

**Roberts Rules of Order.** On any matter or issue not addressed by these Historic Review Board rules, Roberts Rules of Order shall apply.

**Speaking by Board Members.** Any Board member desiring to be heard shall be recognized by the Chair, but shall confine his or her remarks to the subject under consideration or to be considered. Board members will be direct, candid, and professional in speech and demeanor. Board members will speak one at a time, allowing one another to finish.

**Suspension of Rules.** These rules may be suspended upon an affirmative vote of the majority of a quorum of the Board. Suspension of the rules should only occur in cases of extreme necessity and for no other reason.

**Televising of Meetings.** Public hearings before Board may be televised. Televising of hearings shall be accomplished pursuant to applicable adopted policies.

**Voting.** Every Board member, when a question is taken, shall vote unless a majority of the Board members present, for special reason, shall excuse said person. No Board member shall be permitted to vote on any subject in which he or she has a conflict of interest. All votes shall be taken by a roll call. A vote may be yes, no, or an abstention.

The concurrence of a majority of the Board members present and qualified to vote shall be necessary to decide any question before the Board. The meeting recorder shall call the roll, alternating the order of members called. The Chair, in all instances, shall vote last.

**Work Sessions.** Work sessions of the Board shall be held in accordance with the Oregon Public Meetings Law (ORS 192.6-710). Whenever circumstances require such a session, it shall be called by the Chair or two Board members.