

RESOLUTION NO. 22-03

LAND USE PUBLIC HEARING PROCEDURES

WHEREAS, Idaho Code §67-6534 requires that cities maintain a regular set of procedures for conduct of public hearings held by the City of Post Falls Planning and Zoning Commission and City Council in matters governed by the Local Land Use Planning Act; and

WHEREAS, from time to time it is beneficial to review and revise those hearing procedures to better facilitate input from the public and to promote a thorough and expeditious hearing; and

WHEREAS, the City Council adopts the foregoing as its findings of fact justifying its adoption of this Resolution.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Post Falls that all prior land use public hearing procedures are hereby repealed.

BE IT FURTHER RESOLVED that Exhibit A entitled “City of Post Falls Public Hearing Procedures”, attached hereto is hereby incorporated into this Resolution, as if set forth fully, and made a part hereof, is hereby adopted to be applied in matters concerning land use related public hearings.

This Resolution, passed by a majority of the Post Falls City Council, shall be in full force and effect from and after its passage and approval according to law until superseded by a resolution addressing the same subject matter.

PASSED by the City Council on the 2nd day of June, 2022, and

APPROVED by the City Council on this 2nd day of June 2022.



CITY OF POST FALLS

Ronald G. Jacobson

Ronald G. Jacobson, Mayor

ATTEST:

Shannon Howard

Shannon Howard, City Clerk

Shannon Howard, City Clerk

Upon a motion made by a council member, seconded by a council member, the following vote was recorded:

AYES: *Thoreson, Walker, Malloy, Ziegler, Borders*
NAYES: *None*
ABSENT: *Shove*

Exhibit A (Resolution 22-03) City of Post Fall Public Hearing Procedures

Public Notice.

- a. Notice Requirements. Notice of public hearings will be given as required by the Local Land Use Planning Act (Title 67, Chapter 65, Idaho Code) and by the City's adopted zoning and subdivision codes (Titles 17, 18, and 18A, Post Falls Municipal Code).
- b. Timing of Notice. Notice of upcoming public hearings should not be sent until the application and staff report are completed. The complete application and staff report should be posted to the City's website at the time notice is sent to provide interested parties access to relevant information about the hearing and to enable informed public testimony.

Conduct of the Hearing.

- a. Written Testimony and How to Submit. Any person may submit written testimony for consideration by the hearing body. Written testimony that is properly received by the city is entered into the record for the hearing and will be considered by the hearing body. Written testimony must be submitted in one of the following ways. Written testimony that is not submitted in one of these manners will not be included in the record for consideration:
 1. Via E-mail to phnotice@postfallsidaho.org,
 2. Via mail or hand delivery to City of Post Falls Planning Division, 408 N. Spokane Street, Post Falls, Idaho 83854, or
 3. Via the provided web form on the City's website:
<https://www.postfallsidaho.org/your-government/public-hearings/>
- b. Substance of Written Testimony. Written testimony should only address the relevant approval criteria for the type of hearing that is being conducted and must contain the name and address of the person submitting the testimony.
- c. Deadline for Submission of Written Testimony. Written testimony must be received no later than the close of business four (4) business days prior to the date of the public hearing to allow time for the written testimony to be distributed to members of the Planning Commission or City Council and to allow other interested parties time to prepare a response to the submitted written testimony. *For example: if the public hearing is scheduled for a Tuesday, written testimony must be received by the close of business on the prior Wednesday.*
- d. Clerical mistakes, oversight, and omissions. Following the deadline for submission of written testimony, interested parties should review the entire submitted record. If there are

any clerical mistakes, oversights, misstatements, or omissions in the record, such errors therein may be corrected upon timely notice to the Clerk of the Planning Commission or City Clerk. Any notice of clerical mistakes, oversights, misstatements, or omissions must be received no later than the close of business two (2) business days prior to the date of the public hearing.

- e. Exclusion of Written Testimony. Written testimony that is received after the submission deadline will be excluded from the record of the public hearing and will not be considered. The Planning Commission or City Council may, however, admit untimely written testimony into the record for consideration upon a finding of good cause for the delay in submitting the written testimony and a finding that admission of the written testimony will not prejudice another party to the hearing. The Planning Commission or City Council may allow prejudiced parties additional time to rebut the contents of any untimely written testimony accepted into the record or hold the record open for the receipt of rebuttal information from the prejudiced party. Written testimony that does not address the relevant approval criteria will not be considered.
- f. Brief Written Testimony. Brief written testimony may be submitted at the hearing on the space provided on the sign in sheet in lieu of providing oral testimony. Brief written testimony should only address the relevant approval criteria for the type of hearing that is being conducted and must contain the name and address of the person submitting the brief written testimony. The brief written testimony must be less than 200 words as it will be read into the record by the chair.
- g. Sign In Sheet. Each person, other than staff members or City consultants, must have signed their name and provided their contact address on a sign-up sheet provided by the City. Each person must indicate whether they are in support, neutral, or opposed to the proposal. Each person must also indicate whether they wish to provide oral testimony or brief written testimony on the provided form. Brief written testimony must be composed in the space provided on the provided form and will be read into the record by the chair.
- h. Content of Testimony and Conduct of the Witness. Each witness should provide their name and address (or city of residence) for the record and be recognized by the Planning Commission Chairperson or the Mayor prior to speaking. The witness should direct their testimony to the Planning Commission or City Council and not members of the audience. Because each hearing must be recorded, each witness must speak into the provided microphone. Testimony must directly address the relevant approval criteria for the type of hearing that is being conducted. Repetitious testimony should be avoided. Profane, disrespectful, derogatory, or discriminatory testimony is prohibited. The Planning Commission Chairperson or Mayor will warn the witness to stop speaking disrespectfully or concerning matters that are not relevant to the hearing. Critical comments are allowed so long as they are not done in a disruptive manner. If witness testimony continues to address matters that are unrelated to the purpose of the hearing or reaches a level where it is disruptive, hostile, and/or aggressive to a point where the disruptive conduct hinders

the ability of the sitting body to conduct an orderly, efficient, and productive meeting, the Planning Commission Chairperson or Mayor may declare that such testimony does not comply with these standards and deem it out of order and the witness may be required to stop testifying.

- i. Spokespersons. A spokesperson for a group of at least four (4) people will be allowed fifteen (15) minutes to testify on behalf of the group. To be recognized as a spokesperson, the spokesperson must contact the Clerk of the Planning Commission or City Clerk at least six (6) calendar days prior to the hearing and provide the names of all members of the group that they are representing. Each member of the group must be physically present at the hearing but will not be permitted to testify in addition to the testimony provided by the spokesperson.
- j. Decorum During the Hearing. Public hearings are serious events where important rights are discussed and evaluated, which can lead to high emotions. To protect the integrity of the process and the safety and comfort of all participants, cheering, booing, applause, speaking from the audience, heckling, carrying or waving signs, or other conduct attempting to distract, interrupt, or disrupt the hearing is prohibited. The Mayor or Chairperson of the Planning Commission is authorized to enforce these requirements and may require disruptive attendees to be removed from the hearing room.
- k. Procedural Rulings by the Mayor or Chairperson. The Mayor and the Planning Commission Chairperson are authorized to revise the default time frames contained in these rules of procedure, the order of proceedings, and make other procedural rulings provided that the due process right of all parties are protected. In the event of disagreement by City Council or Planning Commission members with procedural rulings by the Mayor or Chairperson, the Council or Commission may suspend or amend any one or more of these rules by majority vote of members in attendance provided that due process rights are preserved.
- l. Exhibits and Maintenance of Records of the Hearing. All exhibits, photographs, diagrams, maps, evidence, and other material presented during the public hearing must be marked or otherwise identified and entered into the record by the clerk of the hearing body. Original exhibits may be released to the presenting party if requested in writing provided the City, in its sole determination, finds that accurate reproductions, photocopies, or other reproductions of the original can be retained to ensure the future availability of a complete and accurate record of the hearing. The City Clerk is charged with maintaining a verbatim transcribable record of all hearing proceedings and original, or accurate duplicates, of all exhibits, written submittals, staff reports and applications in conformance with I.C.50-907. Additionally, the City Clerk is charged with ensuring that accurate minutes of the hearing is maintained as required by Idaho Code.

- m. Continuation in the Event of Long Hearings. The Planning Commission and City Council will not begin a new public hearing after 10:00 p.m. In this case, any scheduled hearings that have not been heard will be continued until the next scheduled public hearing when the hearing will be placed as the first hearing agenda item.

Additional Rules for Quasi-Judicial and Annexation Hearings.

- a. Time Limits and Order of Testimony. Testimony at quasi-judicial and annexation public hearings will be taken in the following order and each speaker will be allowed the following time to testify.
 - 1. Staff Presentation of the Staff Report – No Time Limit.
 - 2. Applicant’s Presentation – 15 Minutes total.
 - 3. Other Testimony in Support of the Proposal – 4 Minutes.
 - 4. Neutral Testimony – 4 Minutes.
 - 5. Testimony in Opposition to the Proposal – 4 Minutes.
 - 6. Rebuttal Testimony¹ by the Applicant – 8 Minutes.
- b. Grant of Additional Time. The Planning Commission Chairperson or the Mayor may allow witnesses additional time to testify if the allowance of additional time does not prejudice another party.
- c. Closure of Public Hearing. At the conclusion of public testimony, the Planning Commission Chairperson or Mayor will close the public hearing and deliberations by the hearing body will begin. Procedural and other questions seeking clarification may be directed to city staff during this period provided that the answer does not introduce new evidence into the record. If new evidence is introduced, the hearing must be reopened to allow the opportunity to rebut the new evidence. Any procedural rules requiring a motion prior to discussion are suspended for purposes of such deliberation.
- d. Decision by the City Council or Planning Commission. At the conclusion of any deliberation a member of the hearing body should make a motion to approve, conditionally approve, or deny the matter and direct staff to prepare the final written Reasoned Decision

¹ Rebuttal testimony is limited to rebutting testimony presented in opposition to the proposal. No new evidence in support of the proposal may be offered. If there is a significant amount of opposition testimony, additional time should be granted for rebuttal. If there is no testimony in opposition, there is no need for rebuttal.

or Recommendation. The motion should include sufficient detail concerning the basis for the decision to enable staff to prepare the reasoned decision or recommendation. The hearing body may also elect to table the matter until a future date provided that the due process rights of all parties are protected. The vote of the hearing body will be made by motion and roll call vote.

- e. Preparation of Reasoned Decision or Recommendation. Following the hearing, City staff will memorialize the hearing body's decision in a written reasoned decision or recommendation that explains the criteria and standards considered relevant, states the relevant contested facts relied upon, and explains the rationale for the decision based on the applicable provisions of the comprehensive plan (for zoning hearings), relevant ordinances and statutory provisions, and factual information contained in the record and a description of what actions, if any, the applicant can take to obtain approval. A reasoned decision must also contain a notice that the application can request a regulatory takings analysis pursuant to I.C. 67-8003. The written reasoned decision or recommendation will be placed on a subsequent agenda for consideration by the Planning Commission or City Council. Until the final decision is rendered and adopted by the hearing body, the rules regarding *ex-parte* communications and site visits still apply. Upon adoption by the hearing body, the written reasoned decision or recommendation is considered the final decision of that body.
- f. Appeal of Planning Commission Decisions. Appeals of quasi-judicial decisions of the Planning Commission are scheduled as a de novo hearing before the City Council. Appeal hearings will be conducted in accordance with these rules.

Additional Rules for Legislative Hearings.

- a. Time Limits and Order of Testimony. Testimony at legislative hearings will generally be taken in the following order and each speaker will be allowed the following time to testify.
 - 1. Staff Presentation of the Staff Report – No Time Limit.
 - 2. Testimony in Support of the Proposal – 4 Minutes.
 - 3. Neutral Testimony – 4 Minutes.
 - 4. Testimony in Opposition to the Proposal – 4 Minutes.
- b. Grant of Additional Time. The Planning Commission Chairperson or the Mayor may allow witnesses additional time to testify.
- c. Closure of Public Hearing. At the conclusion of public testimony, the Planning

Commission Chairperson or Mayor will close the public hearing and deliberations by the hearing body will begin. Procedural and other questions seeking clarification may be directed to city staff during this period.

- d. Decision by the City Council or Planning Commission. At the conclusion of any deliberation a member of the hearing body should make a motion to approve, amend, or deny the matter and direct staff to prepare the appropriate resolution, ordinance, or other document to implement the final decision. The motion should include sufficient detail concerning any amendment to enable staff to prepare the documents needed to implement the decision. The hearing body may also elect to table the matter until a future date. The vote of the hearing body will be made by motion and a roll call vote.
- e. Preparation of Final Decision. Following the hearing, City staff will prepare the necessary documents to implement the decision and return them to the hearing body for final approval.

Additional Rules for Administrative Appeal Hearings

- a. Time Limits and Order of Testimony. Argument at administrative appeal hearings authorized by Post Falls Municipal Code 18.20.110(B) will be taken in the following order and each speaker will be allowed the following time to speak.
 - 1. Appellant's Argument – 20 Minutes.
 - 2. Staff Argument – 20 Minutes.
 - 3. Appellant's Rebuttal – 10 Minutes.
- b. Grant of Additional Time. The Planning Commission Chairperson or the Mayor may allow additional time for argument if the allowance of additional time does not prejudice another party.
- c. Closure of Appeal Hearing. At the conclusion of argument, the Planning Commission Chairperson or Mayor will close the hearing and deliberations by the hearing body will begin. Procedural and other questions seeking clarification may be directed to city staff during this period.
- d. Decision by the City Council or Planning Commission. At the conclusion of deliberation, a member of the hearing body should make a motion to approve or deny the appeal and direct staff to prepare the appropriate documents to implement the final decision. The motion should include sufficient detail to enable staff to prepare the documents needed to

implement the decision. The hearing body may also elect to table the matter until a future date. The vote of the hearing body will be made by motion and a roll call vote.

- f. Preparation of Written Decision. Following the hearing, City staff will prepare the necessary documents to implement the decision and return them to the hearing body for final approval.