

Executive Summary of the Utah and Daniel Code Town of Daniel Board of Appeals

aka By-Laws of the Town of Daniel Board of Appeals

Section I. Authority

Utah Code 10-9a-701 et seq. and DMC Title 2 require the Town of Daniel to establish an appeal authority to hear and decide requests for variances, appeals from land use decisions applying land use ordinances, and appeals from certain fees. The code allows the entity to adopt policies and procedures for the conduct of its meetings, the processing of applications, and for other purposes considered necessary for the functioning of the Board.

Section II. General Provisions

The Board shall interpret and comply with all requirements set forth in the **Land Use, Development, and Management Act (UCA 10-9a) (Part 7 applies specifically to Appeal Authority and Variances)**, Daniel Municipal Code, and these bylaws.

Section III. Officers, Terms, and Duties

- (A) The Board shall consist of five (5) members with alternating terms for two (2) members, then for three (3) members. The terms shall be for four (4) years, and the members shall be chosen from candidates applying for consideration by filing a resume with the clerk/recorder for the Town by November 15. Candidates must have been a resident of the town for at least one year immediately before the date of appointment, a registered voter in Daniel, and must not have been convicted of a felony.
- (B) The Mayor with the advice and consent of the Town Council will then choose from the applicants to fill vacancies within the Board of Appeals. These are strictly volunteer positions, and members serve without compensation.
- (C) Members shall be administered the oath of office by the clerk/recorder following appointment but before taking part in the consideration of any matter.
- (D) In the event that a member moves from the municipal area, that board member shall be deemed to have resigned from the Board, and that position shall be deemed to have become vacant. The clerk/recorder will give public notice to allow for applications to be submitted for filling that vacancy.
- (E) Any member may be removed from office for cause after a motion to remove for cause with a majority vote from that Board.

- (F) Each calendar year the Board will elect a Chair and Vice chair to serve from Jan 1-Jan 1 or until the Board meets and elects the replacements.
- (G) Ethical considerations: 1) Members shall, upon appointment, and annually disclose to the Daniel Town Council if they are an owner of a business entity subject to the regulation of Town of Daniel. 2) No member shall act or vote on any matter in which he/she has a direct financial interest, in which the applicant may be related by blood or marriage, which involve a conflict of interest, or which the member cannot fairly and impartially act or vote on any matter before the Board. 3) No member shall use his/her position to secure special privileges for him/herself or others, nor disclose or use confidential information. 4) No member shall receive, accept, take, seek or solicit a gift from an applicant, nor shall a member consult with an applicant prior to consideration of an application prior to the meeting.
- (H) If a member is present at a meeting at which he/she has a conflict of interest, he/she shall publicly disclose the conflict and, and if the member believes that he/she cannot be impartial, he/she will recuse him/herself from judgment on that particular matter. If there is a dispute as to whether a conflict of interest exists, it shall be resolved by the Chair.
- (I) A secretary shall be named to verify that proper noticing has been made, keep the minutes of the proceedings, ensure that all members of the Board receive materials pertinent to the meetings at least 7 days prior to the scheduled meetings, and to perform such other duties as may be required.

Section IV. Meetings

- (A) Hearings will be scheduled as required by the Chair, dependent on the availability of a quorum attendance, but with every intention of prompt attention and due process to the applicant's request or complaint. Proper noticing of a meeting will be observed to comply with Utah state code and, meetings will comply with the Open and Public Meeting Act.
- (B) A quorum will be 3 members or more in attendance. A member participating in a meeting telephonically or through video conferencing is considered part of the quorum, and may make motions, seconds, and vote.
- (C) Any member may make a motion. A proper motion, followed by a second, will pass if a majority of the members present vote yes. A tie vote (2-2) will fail. A lack of a second will also result in a failed motion. The Chair will vote.
- (D) The Chair should make every effort to move the meeting along in a timely manner while making sure that the applicant is fairly and adequately heard, but the Chair should be on alert for redundant points or arguments.

Section V. Agenda and Documents

- (A) All matters presented to the Board for consideration shall be accompanied by a staff report detailing the overview, background, analysis and staff recommendation(s) which shall include findings of fact and conditions for approval or denial, if any. Staff reports shall address the portion of the Daniel Municipal Code, the Utah Code, and supply the text of the code that is applicable to the applicant's request. Staff reports should be as concise as possible while allowing for adequate coverage of the subject matter and shall be made available to the applicant. The applicant may submit a response to the staff report with supporting documentation of his/her argument. No **new** arguments will be accepted at the scheduled Board meeting. A complete application must be received prior to scheduling of a Board of Appeals hearing. The Board Chair will be responsible for scheduling the Board of Appeals hearing based in part on the availability of a quorum.
- (B) Once the documentation is received, the secretary will see that a complete copy of agenda and documentation submitted by the Planning Department, the applicant, and any other interested parties are delivered to the Board members attending the meeting at least 7 days prior to the scheduled meeting.

Section VI. Conduct of meetings

- (A) The following procedure will normally be observed, but may be rearranged by the Chair as necessary or practical:
- (1) Welcome and Item introduction by Chair
 - (2) Applicant presentation of proposal, questions from the Board
 - (3) Staff presentation and recommendation, questions from the Board
 - (4) Rebuttal comments by applicant, rebuttal comments by staff
 - (5) Interested parties' comments, Opponent and Proponent
 - (6) Board discussion, motion, second and vote

Section VII. Minutes and Records

- (A) It shall be the duty of the secretary to keep the minutes and a recording of all meetings of the Board.
- (B) Written minutes of all meetings shall include, but is not limited to:
- (1) The date, time and place of the meeting;
 - (2) Names of members present, absent, or attending electronically,
 - (3) Substance of all matters proposed, discussed, or decided, and a record, by individual member of votes taken;

- (4) Names of all citizens who appeared and the substance in brief of their testimony,
- (5) A detailed account of the Board discussion and deliberation on the application.
- (6) A record of the vote taken by name of each member.

All documentation presented at the meeting will be part of the official public record. Minutes and recordings will be posted online on the town website and the Utah Public Notice website promptly after the meeting.

Section VIII. Amendment of By-laws

These bylaws may be amended at any properly noticed meeting of the Board and may go into effect upon approval by the Daniel Town Council.

Approved July 11, 2023