

CITY AND BOROUGH OF JUNEAU PLANNING COMMISSION
HEARING PROCEDURES RELATING TO APPEALS (CBJ 49.20.110)

1. Intent and Construction. A hearing before the City and Borough of Juneau Planning Commission is intended to be an informal, fair proceeding, with due regard for the rights of the parties involved. These procedures shall be interpreted in a manner consistent with that intent.

2. Rules of Evidence. Any document, any information or any testimony upon which responsible persons would rely in the conduct of serious affairs may be considered, regardless of the existence of any common law, statutory or court rule that might make such evidence inadmissible in a civil or criminal action. The chair will rule on any objections to evidence presented.

3. Attendance. A party or the party's designated representative must attend the hearing. A party who fails, without good cause, to appear at the hearing waives his or her right to participate in the hearing.

4. Burden of Proof. The party challenging the director's decision bears the burden of proof of establishing by a preponderance of the evidence that the decision should be reversed or modified.

5. Appointment of presiding officers.

The Planning Commission may assign a qualified, unbiased and impartial presiding officer to conduct hearings under this procedure. The presiding officer may perform other duties in connection with the administration of this procedure.

6. Prehearing conference.

(a) The presiding officer of the appeal agency shall, unless the parties agree otherwise, conduct a prehearing conference with the parties to consider and issue orders related to the following:

- 1) Intervention by additional parties;
- 2) Simplification or settlement of the issues;
- 3) Preparation and distribution of the record;
- 4) Preparation and submission of stipulations, admissions, depositions, subpoenas, affidavits, exhibits and other forms of prefiled evidence to the extent permitted by subsection 01.50.110(e);
- 5) Briefing schedule;
- 6) Submission of witness lists;
- 7) The date for the hearing;
- 8) The order and time limits for presentation of the appeal; and
- 9) Any other matter that may assist in the disposition of the appeal.

(b) The presiding officer shall issue a prehearing order setting forth the time and place of the hearing and such other information as may aid in the disposition of the appeal. The order shall be delivered to all parties no more than five days after the prehearing conference.

7. Conduct of Hearing.

(a) The chair or, in the absence of the chair, the vice-chair, shall preside at the hearing. The chair shall maintain decorum, rule on objections to evidence, and

assure that all parties have reasonable opportunities to present their cases, including setting time limits for statements, testimony and rebuttals. The chair may hold one or more pre-hearing conferences with the parties for scheduling or other purposes prior to the hearing.

(b) The hearing shall be recorded, electronically or by a court reporter. A party may request copies of the tapes or a transcript of the hearing. The requesting party shall bear the cost of copying or transcription.

(c) Unless otherwise determined by the chair, the hearing shall proceed as follows:

- 1) Each party may make a short opening statement summarizing their position and the evidence they intend to introduce;
- 2) The party with the burden of proof shall present their evidence through testimony and introduction of exhibits;
- 3) The other parties, starting with the CBJ staff, shall then present their evidence through testimony and introduction of exhibits;
- 4) The Chair may, in the Chair's discretion, allow the party with the burden of proof to present additional rebuttal evidence and testimony; and
- 5) Each party may make a short closing argument summarizing their case and stating what action, if any, they believe the Commission should take.

(d) The Commission shall, in its discretion, recess and reconvene the hearing for the convenience of the participants and the Commission members.

(e) After the parties have presented their evidence and argument, the Commission shall deliberate in executive session. The Commission shall recess and reconvene its deliberations as it believes appropriate.

8. Presence at Hearing and Voting. A Commission member who was not present at the hearing shall not participate in the board's deliberations or in the board's decision.