

**Resolution No. 2009-5**

**A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF ST. ANTHONY,  
IDAHO, ADOPTING HEARING PROCEDURES**

WHEREAS, Idaho Code Section 67-6534, Land Use Planning requires the City to adopt procedures for the conduct of public hearings involving land use issues; and

WHEREAS, the purpose of this resolution shall be to provide a procedure by which the City Council and Planning Commission shall conduct hearings in land use, and other matters which, by Federal, State, or City law, require the receipt of evidence, whether testimony, documents, or otherwise, and a response from the City Council or Planning Commission in the form of a written decision based on the record.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the City of St. Anthony, Idaho that the city hereby adopts the Hearing Procedures attached as Exhibit "A."

The administrative staff of the City is authorized to take all necessary steps to carry out the Hearing Procedures provided by this Resolution.

Passed by the St. Anthony City Council the 25<sup>th</sup> day of February, 2009 and approved by the Mayor on the 25th day of February, 2009.

/s/  
\_\_\_\_\_  
Garth Rose, Mayor

ATTEST:

/s/  
\_\_\_\_\_  
Patty Unruh Parkinson, City Clerk

## **HEARING PROCEDURES**

### **PURPOSE:**

The purpose of these rules shall be to provide a procedure by which the City Council and Planning Commission shall conduct hearings in land use, and other matters which, by Federal, State, or City law, require the receipt of evidence, whether testimony, documents, or otherwise, and a response from the City Council or Planning Commission in the form of a written decision based on the record.

### **DEFINITIONS:**

For the purposes of this Chapter, words shall have the following meanings:

**APPLICANT/APPELLANT:** The person or entity seeking a decision from the City Council. **CITY COUNCIL:** The City Council of the City of St. Anthony, Idaho.

**PLANNING COMMISSION:** The Planning Commission of the City of St. Anthony, Idaho.

**STAFF:** Any City officer, employee, or contract employee present during the hearing.

### **SUBMISSION OF A PROPOSED DECISION:**

The City Council and Planning Commission encourage any interested party to a hearing before the City Council or Planning Commission to submit a brief synopsis of the matter, argument, and a proposed decision (including findings and conclusions, if applicable). Any written synopsis, written argument or written proposed decision must be received by and lodged with the City Council or Planning Commission at least five (5) calendar days prior to commencement of the hearing. Failure to submit documents contemplated hereunder shall not prejudice an interested party from submitting any written synopsis, written argument or written proposed decision during the public hearing.

### **CONDUCT OF HEARING:**

Hearings before the City Council or Planning Commission shall be conducted in general conformance with the following procedure:

A. Generally: The City Council or Planning Commission may limit testimony and scope of the hearing as necessary. The City Council, or its designee, if any, may at any time during the hearing freely inquire of anyone at the hearing, including staff.

B. Report: Hearings before the City Council or Planning Commission shall commence with a report from staff. The report may be written or oral, at the pleasure of the City Council or Planning Commission, and may include testimony from witnesses. The report shall contain recommendations and a proposed decision for the City Council's Planning Commission review, including proposed findings of fact and conclusions of law in a form directed by the City Council or Planning Commission for such matters, if any. The City Council shall not be bound by the recommendations of staff.

C. Applicant/Appellant Comments: At the conclusion of staff's comments, if any, the applicant/appellant, and those favoring the applicant/appellant's position shall be allowed an opportunity to present testimony, documents, and other evidence which supports his or her position. An applicant/appellant may be represented by counsel. Except as provided in subsection E, at the City Council's or Planning Commission's discretion, testimony for and against an application may be presented in rotating order. Time limits may be imposed by the City Council or Planning Commission.

D. Opponent And General Comments: When the applicant/appellant has concluded his or her comments, those opposing the applicant/appellant's position or having general questions shall be provided an opportunity to present testimony, documents, or other evidence refuting the evidence presented on behalf of the applicant/appellant. The same time limits, if any, imposed on the Applicant/Appellant, as set forth in subsection C above, may be imposed on Opponents and those persons providing General Comments.

E. Applicant/Appellant Rebuttal: When the opponents, if any, have all concluded their comments, only the applicant/appellant shall be allowed a brief period of time for rebuttal.

## **RECORD:**

The staff report shall automatically become part of the record as shall any documents submitted by the applicant/appellant or any opponents, as shall all testimony given at the hearing. At conclusion of the hearing, the City Council or Planning Commission shall close the record unless the City Council or Planning Commission determines, in its discretion, additional evidence is required, in which event, it may proceed as follows:

A. Close the record with the exception of allowing the submission of specifically requested information;

B. Leave the entire record open for the submission of additional evidence to a date and time certain, at which time it will automatically be closed without further action of the City Council or Planning Commission; or

C. Continue the hearing to a date and time certain for the purpose of receiving additional evidence and conducting such further proceedings as may, in its discretion, be advisable.

## **REOPENING THE RECORD:**

Prior to issuing a written decision, the City Council may, for good cause demonstrated, reopen the record for the purpose of receiving additional evidence. An interested party may seek to reopen the record by filing a motion prior to the City Council issuing a written decision, to reopen the proceedings containing information therein to demonstrate good cause and paying any costs which will be incurred by the County to comply with applicable law. The City Council shall decide an applicant/appellant's motion to reopen the record within five (5) days of the receipt

thereof. The City Council may, within the time allowed herein, reopen the record for good cause on its own motion. In either case, if the City Council determines to reopen the record, it shall thereafter comply with applicable law, if any, governing notice and hearings.

### **DECISION BY THE CITY COUNCIL OR THE PLANNING COMMISSION:**

When the record has been closed, the City Council or Planning Commission shall take the matter under advisement for the purpose of deliberating towards a decision based on the record. After deliberating, the City Council or Planning Commission may;

- A. Immediately render a written decision complying with applicable law; or
- B. May continue the matter to a date and time certain for further deliberation and decision. Provided, if the matter is continued, the City Council or Planning Commission shall render a written decision within thirty (30) calendar days, unless a shorter period is provided by law, in which case the shorter period shall apply.
- C. The City Council or Planning Commission shall deliberate and make decisions at meetings which comply with the Open Meeting Act, Idaho Code section 67-2340, et seq., as it may be amended from time to time.

### **APPLICABILITY:**

This Chapter shall apply to any matter currently pending for which no hearing has been held and to all other qualifying matters hereafter considered by the City Council or Planning Commission.