



# Design Review Board

This document outlines the Design Review Board role, membership, actions, and processes.

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## Who can be a member of the Design Review Board?

The Leavenworth Design Review Board consists of five members, plus an alternate and a construction advisor. All members are appointed by the mayor and confirmed by a majority of the city council. The term of appointment is four years, and members can be reappointed for successive terms.

Serving on the board requires members to have a knowledge of the Old World Bavarian Alpine theme and/or demonstration of the following:

1. Travel throughout the Bavarian Alpine region of Bavaria;
2. Working or living in the Bavarian Alpine region of Bavaria;
3. Demonstrate a fundamental knowledge of the Old World Bavarian Alpine architecture through the design or building of Old World Bavarian Alpine style structures;
4. Demonstrate a fundamental knowledge of Old World Bavarian design elements such as color, window treatment, murals, overhangs and building materials;
5. Demonstrate, via travel throughout Germany, Austria, and/or Switzerland, the ability to differentiate between regional design elements.

## What does the Design Review Board do?

The Board reviews the exterior elements and overall design of projects located within the Commercially zoned areas of the City and its UGA for consistency with the Old World Bavarian Alpine theme, outlined in [Chapter 14.08 Leavenworth Municipal Code \(LMC\)](#). Some projects can be reviewed and approved administratively and do not come to the Board for review. No building or structure, walkway, plaza, lighting or other miscellaneous items can be placed, constructed, changed, altered, added to without first obtaining design review board approval and a permit. The board reviews and makes decisions on applications for signs, construction compliance with the Old World Bavarian theme, multifamily site plans, applications for wireless telecommunications facilities (WF), and other review at the request of the City Council.

The majority of projects reviewed by the Board are signs; however, building design has a substantial impact on the community and can include new buildings and renovations.



## What is the Design Review Application Process?

Business owners submit Design Review application and fees, which are reviewed for completeness by city staff. Once an application is complete it is scheduled for a hearing with the Design Review Board, consistent with a quasi-judicial review process, outlined in [Chapter 21.09 LMC](#).

Ten calendar days before the date of the meeting, the city will post a public notice (agenda) in three different locations at City Hall.

Seven days before the meeting, the city will issue a written staff report which is provided to the applicant and the Board.

Decisions are sent ten calendar days, or sooner, to the applicant and any parties of record, after the close of the public hearing.

## What is the Design Review Meeting/Hearing process?

Board meetings/hearings are held on the second and fourth Wednesday of each month, as established in the bylaws. All meetings are open to the public and conducted in accordance with Open Public Meetings Act, Chapter 42.30 RCW.

A quorum is required for the transaction of any business of the design review board. Three members of the Board constitute a quorum. Each regularly appointed member is entitled to one vote on any matter that may come before the Board. The alternate member will vote when one of the regular members is absent, otherwise the alternate will participate, but not vote. All actions requiring a vote of the Board must have a simple majority for a favorable vote. If there are only three board members at a meeting and one member is subject to the appearance of fairness doctrine, the meeting may proceed under the doctrine of necessity.

Individual hearings for each application on the agenda are held to gather evidence on the merits of the proposal. The board considers that evidence presented at the hearing, as well as those written materials already on file, in order to formulate a decision.

The Board strives to conduct meetings in a relaxed and informal manner, however there is still a process followed in order to move the meeting along and ensure that all parties are allowed to present evidence and are given the opportunity to testify on an application if they so desire. Members of the public are authorized to testify and provide evidence on an individual proposal. The Board will not accept any documentation or evidence which is not within the scope of the projects being heard.

For each hearing, the Board has the option of keeping the record open to allow for additional comments or documentation to be submitted, or close the public record portion of the application and issue a decision. Following the hearings, the Board may consider proposals for which parties are seeking consultation. The Board shall not render any formal decision on consultations, until such time that a formal application is brought before them.

The board will take action to approve, approve with conditions, deny or continue a decision. Failure to make a motion to approve, approve with conditions, or continue a decision is regarded as a denial.

Final decisions are prepared by city staff, and issued within 10 workdays after the date the public record closes. Any person aggrieved by the final decision may appeal to the Hearing Examiner, pursuant to [Section 21.11.025 LMC](#).

#### Sample Hearing Procedure/Script:

Call to Order: The Chair may state, "I will call the meeting to order at [TIME]. This is the [DATE OF MEETING] public meeting of the Leavenworth Design Review Board.

Roll Call: Each member of the Board in attendance will be acknowledged. Members not in attendance will be noted as an excused or unexcused absence. Members joining late will be acknowledged at the time they join the meeting.

Open Meeting: My name is [CHAIR'S NAME], duly elected chair of the Leavenworth Design Review Board. The Design Review Board members are appointed by the Mayor of the City of Leavenworth under the provisions contained in Section 2.38.020 of the Leavenworth Municipal Code. The Board's duty is to render decisions for compliance with the Old World Bavarian Alpine theme, together with any other duties or authorities which may be conferred upon the Board by the city council.

Applications which come before us are processed in accordance with the Quasi-Judicial Review process pursuant to [Chapter 21.09 LMC](#). We will hold individual hearings for each application being heard before us today to gather evidence on the merits of the proposal. We will consider that evidence presented at today's hearing, as well as those written materials already on file, in order to formulate our decision.

The Board strives to conduct meetings in a relaxed and informal manner, however there is still a process which I will follow in order to move the meeting along. If you are going to testify, please approach the table at the appropriate time and state your name and address for the record. If you are going to give evidence, I will swear you in. Please keep your testimony relevant to the applications being heard before us today.

If you have any cell phones or other audible telecommunications equipment, as a courtesy to everyone here today I ask that you please turn them off or into silent mode at this time.

To address the Appearance of Fairness Doctrine, I will ask questions of the members of the Design Review Board and the audience here today:

To the Design Review Board:

Do any members of this board have a personal interest in the properties or proposals being heard before them today?

Did any members of this board have ex parte contact with any applicant, member of the public, or other board member concerning a proposal being heard today?

Are the members of this board able to hear and consider the matters before us today in a fair, impartial and objective manner?

To the Audience:

Is there anyone in attendance who objects to the participation of any member of the Design Review Board in the hearing of any proposals on the agenda today? If so, please state your name and reasons for the objection.

Please let the record show that [city staff], as secretary to the board, is/are present today.

Staff has provided the Board with the file of record, including application materials and a staff report with recommended findings of fact and conclusions of law, for each of the hearing items on today's agenda.

Hearing Items will be addressed in the following manner:

We will hear the first item on the agenda: Permit number [SEE AGENDA], an application by [APPLICANT NAME] for [TYPE OF PROPOSAL (SIGN/DESIGN)]. The Board will hereby admit the entire file into the record.

To the Applicant:

Is the applicant, or a person or persons authorized to represent the applicant present today? [if the applicant or representative is not present, the item shall be continued to a date/time/place certain]. If so, please have a seat at the table and state your name for the record.

To the Staff:

Will staff please give us a brief report and any recommendations on this application? [STAFF TO PRESENT REPORT AND RECOMMENDATION]

To the Board:

Do any Board members have questions for staff regarding the report?

To the Applicant:

Please raise your right hand. Do you swear or affirm that the testimony you are about to give will be the truth? Is there any evidence or testimony which you wish to present?

To the Board:

(This is the Board's opportunity to discuss and ask questions of the applicant.)

To the Public (if present):

Are there any members of the public who wish to present testimony at this time? (If so, please approach the table and state your name and address for the record.) If no members of the public wish to present testimony, so state on the record.

To the Applicant:

As the applicant, you get the final statement, would you like to add any further testimony or present any further evidence?

To the Board:

Would board member like to make a motion for approval, denial, or continuance of the proposal?



At the close of all items on the agenda, the Chair may ask for other items or for adjournment. If there are consultation items on the agenda or requested, they may be discussed without board decision until a complete application is submitted and reviewed at a hearing.

### What is the average meeting length?

Standing meetings are scheduled to start at 3:00 pm. There is no designated end time, however, agendas are formatted with the intent of two hours or less of meeting time. Meetings should not last more than two hours. If it looks like a meeting will go long, the Chairperson may request items be moved to the next standard meeting, or a date/time/place certain.



### Are meeting minutes available?

Design Review Board meetings/hearings are recorded. The agenda acts as the “summary” of the meeting/hearings. The recordings are available for public to review. Transcriptions are made when/if an item is appealed.

### What is appearance of fairness?

For quasi-judicial proceedings, a Washington statute, Chapter 42.36 RCW and case law require a fair hearing and an impartial decision maker. A summary of actions that may violate appearance of fairness taken from MRSC, a public resource, follows:

By following Appearance of Fairness requirements, local governments have a method for disqualifying decision-makers from quasi-judicial hearings who have prejudged the issues, who have a bias in favor of one side in the proceeding, who have a conflict of interest, or who cannot otherwise be impartial. "Ex-parte" communications between a decision-maker and a proponent or opponent of the matter being decided are prohibited

### What creates a conflict of interest?

A potential conflict of interest exists when a Board member takes an action that reasonably could be expected to have a financial impact on that member, a relative, or a business with which the member or member’s relative is associated. Members of the Board shall reveal any conflict of interests.

Many perceived conflicts usually are not actual conflicts and are not illegal. But even perceived conflicts are vulnerable to legal challenges and public misunderstanding.

#### Tips to avoid even the Appearance of Impropriety:

- Board members with a possible conflict should briefly state their potential conflict and be prepared to answer pertinent questions about it from other Board members.
- Board members should recuse themselves (leave the meeting) for items associated with the conflict. A Board member may participate in an action after declaring the potential conflict and announcing its nature, if the recusal will result in a lack of a quorum (based on the rule of necessity).
- All assertions of conflict should be recorded in the board meeting minutes as well as the actions taken with respect to the alleged conflict.

#### How does the Board deal with conflict among members or with the public?

The Board Chair should make it clear that: 1) whenever people get together to discuss design, there's bound to be disagreement; 2) members should be courteous to each other and allow all views to be shared. Hearing another's point of view is never a bad idea and disagreement can bring out sides to issues that are important to think about; and 3) no item must be decided at the meeting/hearing. Controversial items are best addressed when time to consider each comment is provided.

Conflict and controversy can be common with active, productive boards. Think of conflict as neither good nor bad. Consider it as the appearance of differences of opinion, interests and experiences. Many times the differences remain undisclosed until some situation between members brings the differences out in the open. Although you may not like conflict, it can be the "stuff" out of which comes progress. It may not seem possible at the time your board is going through it, but a great deal of value will come out of a difficult situation if your board reviews the experience and makes up its mind to learn from it.