

LINDON CITY CODE

Chapter 17.10 - BOARD OF ADJUSTMENT

Sections:

| | |
|-----------|------------------------|
| 17.10.010 | Purpose |
| 17.10.020 | Appointment-Membership |
| 17.10.030 | Procedures |
| 17.10.040 | Powers and Duties |
| 17.10.050 | Variances |

Section 17.10.010 Purpose

In order to provide for fair treatment in the administration of local land use ordinances, hear specific appeals, evaluate variance requests, and to ensure that substantial justice is done, A Board of Adjustment has been created to exercise the powers and duties proved hereafter. (Ordinance 2008-11, adopted 11/18/2008)

Section 17.10.020 Appointment--Membership.

The board of adjustment shall consist of five(5) members, each to be appointed by the Mayor, with the advice and consent of the City Council, for a term of five (5) years. Members of the Board of Adjustment shall be residents and owners of real property within the jurisdiction. Board members may serve multiple terms as appointed by the Mayor and City Council. Any member may be removed for cause at any time by the Mayor and City Council. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant. No member of the City Council, employees of the City, or Planning Commission shall be a member of the Board of Adjustment. (Ord. 2008-11, adopted 11/18/2008, Ord. no. 111 §1(part), 1985; prior code §12-102-2(A).

Section 17.10.030 Procedures.

The Board of Adjustment is authorized to:

1. Organize and elect a chairman and vice chairman;
2. Adopt rules that comply with all applicable State statutes and City ordinances;
3. Meet at the call of the chair and at any other

times that the Board of Adjustment determines;

4. Conduct its meetings in compliance with requirements of State Statutes and City ordinances concerning the keeping of minutes, and recording of votes and absences;

5. Make decision on scheduled agenda items;

- a. Three members constitute a quorum of the Board of Adjustment and a concurring vote of at least three members is necessary to grant a variance or to overturn a decision on an appeal.
- b. When acting as a Land Use Authority, the effective date of a final decision of the Board of Adjustment is the date of the meeting in which a written decision is issued for the subject item. When acting as an Appeal Authority, the effective date of a final decision is the date when the decision is made (not when written decision approved.) (Ord. 2008-11, adopted 11/18/2008, Ord. no. 111 §1(part), 1985; prior code §12-102-2(C).)

Section 17.10.040 Powers and Duties

1. The Board of Adjustment shall hear and decide;

- a. requests for any variance from the terms of the land use ordinance;
- b. appeals for those items in which the Board acts as the appeal authority as listed LCC 17.09, Table #1;
- c. other matters as established by the City Council.(Ord. 2008-11, adopted 11/18/2008, Ord. no. 111 §1(part), 1985; prior code §12-102-2(D).)

Section 17.10.050 Variance

1. Any person or entity desiring a waiver or modification of the requirements of the land use ordinance as applied to a parcel of property that he owns, leases, or in which he holds some other beneficial interest may apply to the applicable appeal authority for a variance from the terms of

LINDON CITY CODE

the land use ordinance.

2(a) The Board of Adjustment may grant a variance only if:

i. Literal enforcement of the land use ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the land use ordinances;

ii. There are special circumstances attached to the property that do not generally apply to other properties in the same zone;

iii. Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone;

iv. The variance will not substantially affect the General Plan and will not be contrary to the public interest, and;

v. the spirit of the land use ordinance is observed and substantial justice done.

(b) i. In determining whether or not enforcement of the land use ordinance would cause unreasonable hardship under Section (2)(a), the Board of Adjustment may not find an unreasonable hardship unless the alleged hardship;

A. Is located on or associated with the property for which the variance is sought, and;

B. Comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood.

ii. In determining whether or not enforcement of land use ordinance would cause unreasonable hardship under Subsection (2)(a), the Board of Adjustment may not find an unreasonable hardship if the hardship is self-imposed or economic.

(c) In determining whether or not there are special circumstances attached to the property under Subsection (2)(a), the Board of Adjustment may find that special circumstances exist only if the special circumstances;

i. Relate to hardship complained of, and;

ii. Deprive the property of privileges granted to other properties in the same district.

3. The applicant shall bear the burden of proving that all of the conditions justifying a variance have been met.

4. Variances run with the land.

5. The Board of Adjustment and any other body may not grant use variances.

6. In granting a variance, the Board of Adjustment may impose additional requirements on the applicant that will;

a. mitigate any harmful affects of the variance, or;

b. serve the purpose of the standard or requirement that is waived or modified.(Ord. 2008-11, adopted 11/18/2008, Ord. no. 111 §1(part), 1985; prior code §12-102-2(E).)

LINDON CITY CODE
