

TITLE 2

Boards and Commissions

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CHAPTER 1

Board of Adjustment

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2-1-1. Board created.

There is hereby created a Board of Adjustment which shall consist of five (5) members and two (2) alternates and who shall be appointed by the Board of Trustees. Further reference to the Board of Adjustment may hereafter be made as the "Board." (Ord. 216, 3-19-81; Ord. 352, 03-16-06)

2-1-2. Board members.

(A) Terms. Members of the Board of Adjustment are appointed by the Board of Trustees for three-year terms. At the expiration of these terms, new members shall be appointed for the three-year terms as provided for above, and unless new members are appointed at the expiration of any term, it shall be assumed that the old member has been reappointed by the Board of Trustees.

(B) Qualifications. Members of the Board of Adjustment must be resident property owners of the Town.

(C) Attendance. It shall be the duty of the members of the Board of Adjustment to attend all regular and special meetings and workshops of the Board. If any member of the Board shall miss three (3) or more meetings and/or workshops in one (1) calendar year, including properly noticed special meetings, such member may be subject to removal from the Board of Adjustment by the Board of Trustees. A member shall use his best efforts to inform the Town Clerk of any nonemergency absence from a meeting or workshop at least two (2) days prior to such meeting or workshop.

(D) Vacancies. Vacancies in the Board caused by death, resignation, refusal to act or removal by the Board of Trustees shall be filled by appointment of said Board of Trustees. (Ord. 333, 02-20-03)

2-1-3. Officers.

The Board shall, at its first regular meeting of each year, select a chairman, a vice chairman and a secretary. The secretary may or may not be a member of such Board. The chairman shall preside at such meetings and shall perform all duties usual and ordinary for the presiding officer of any board or group; the vice chairman shall perform the duties of the chairman in the absence of the chairman; the secretary shall keep full and complete minutes and records of all meetings, shall have the custody of all records, shall generally supervise all of the clerical work of the Board and perform the duties usually performed by the secretary of a board or a group. (Ord. 216, 3-19-81)

2-1-4. Duties.

The Board of Adjustment shall have the following duties:

(A) To meet at the call of the chairman or by the request of the Building Inspector for the Town, the Board of Trustees or by any party wishing to appeal the decision of the same as provided by statute. (Ord. 216, 3-19-81; 1990 Code)

(B) To adopt any rules necessary to transact the Board of Adjustment's business or to expedite its functions or powers so long as they are not inconsistent with the provisions of the Zoning Title¹ or the provisions of the applicable Colorado statutes.

(C) With the affirmative vote of four (4) members, to vary or modify the application of the regulations or provisions of any zoning district relating to the construction or alteration of buildings or structures where there are practical difficulties or unnecessary hardships. No such variances shall be granted to permit uses not otherwise permitted in the applicable district. The Board is authorized to grant variances or modifications such as, but not limited to:

- (1) Height, setback and building requirements related to structures;
- (2) Height, setback and building requirements related to fences;
- (3) Number of parking spaces; and
- (4) Width of lots and square footage of lot area. (Ord. 2009-7:1/367)

(D) With the affirmative vote of four (4) members, to hear and decide appeals from and to review any order, requirement, decision or determination made by the official charged with the enforcement or interpretation of any zoning ordinance or zoning establishing document adopted by the Town and to reverse, affirm, modify or amend any such order, requirement, decision or determination. (Ord. 2009-7:1/367)

(E) To keep minutes of the proceedings of each meeting which shall be filed in the office of the Board of Adjustment who may designate the building inspector for the Town to keep such files and which shall be a public record. (Ord. 216, 3-19-81; 1990 Code)

(F) Herein meetings are open to the public in compliance with Section 24-6-401, et seq., C.R.S. (1990 Code; Ord. 216, 3-19-81; Ord. 2009-7:1/367)

2-1-5. Jurisdiction.

(A) Generally. The Board of Adjustment is hereby granted jurisdiction over appeals from the interpretation of the Zoning Title and the granting of variances pursuant to the provisions of Section 31-23-307, C.R.S. (1990 Code; Ord. 216, 3-19-81; Ord. 2009-7-1:367)

¹ See Title 9 of this Code.

(B) Interpretation of Zoning Title. The Board of Adjustment shall have the power to interpret the Zoning Title, including any uncertainty as to district boundary locations or meanings of words, so long as this interpretation is not contrary to the purpose and intent of this Chapter.

(C) Variances. The Board of Adjustment shall have the power to grant variances from the provisions of the Zoning Title but only after consideration of the following provisions:

(1) That satisfactory proof has been presented to the Board showing that the present or proposed situation of a requested building, structure or use is reasonably necessary for the convenience or welfare of the public.

(2) That the variance which is requested would not authorize any use other than uses enumerated as a use by right of the district or a use by special review.

(3) That an unnecessary hardship to the owner would be shown to occur if the provisions of the Zoning Title were literally followed.

(4) That the circumstances found to constitute a hardship either were not created by the owner or were in existence at the effective date hereof and cannot be reasonably corrected. (Ord. 216, 3-19-81)

(5) That the variance would not injure the value, use of or prevent the proper access of light or air to the adjacent properties. (Ord. 283, 5-18-95, eff. 6-17-95)

(6) That the variance would not be out of harmony with the intent and purpose of the Zoning Title. (1990 Code; Ord. 216, 3-19-81; Ord. 283, 5-18-95, eff. 6-17-95; Ord. 2009-7-1:367)

2-1-6. Procedure of Board of Adjustment.

(A) Appeals and variance permit applications. All appeals and variance permit applications shall be in writing and shall be submitted to the Town Clerk at the Town Hall. At the time of application, the appellant or applicant shall also provide the following information to the Town Clerk:

(1) Every application or appeal shall set forth the grounds upon which a hearing is being sought, including:

(a) Which provisions of the Zoning Title of this Code are involved;

(b) The relief sought by the applicant or appellant; and

(c) The jurisdiction of the Board, as set forth in Section 2-1-5, to hold such hearing. (Ord. 2010-10:1/377)

(2) A list and/or map showing the owners of property within one hundred (100) feet of the exterior boundaries of the property which is the subject of the application or appeal.

(3) A draft of the legal notice of public hearing before the Board of Adjustment to be published and to be mailed to all owners of property within one hundred (100) feet of the exterior

boundaries of the property which is the subject of the application or appeal, which draft shall be in the form as set forth in Section 2-1-8 of this Code. (Ord. 2009-7:1/367)

(B) Time of filing. Appeals to the Board must be filed with the Town Clerk within thirty (30) days after the final decision, order or determination which is the subject of the appeal.

(C) Public hearing. The Town Clerk shall set a public hearing before the Board, which hearing shall be held within sixty (60) days after the filing of an appeal or variance permit application. (Ord. 2009-7:1/367)

(D) Notice. The Town Clerk shall notify the applicant or appellant of the date for the public hearing before the Board and of the Town Clerk's approval of the draft legal notice submitted at the time of filing the appeal or application. Notice of the public hearing must be provided as follows:

(1) The applicant or appellant shall mail a copy of the approved legal notice to the owners of property within one hundred (100) feet of the exterior boundaries of the property which is the subject of the public hearing. The mailing shall be by certified mail, return receipt requested, at least fourteen (14) days prior to the hearing date.

(2) The applicant or appellant shall have the approved legal notice published in a newspaper of general circulation within the Town at least ten (10) days before the hearing date and shall pay for the costs of such publication.

(E) Required documents. Prior to the public hearing, the applicant or appellant shall provide the Town Clerk with the following:

(1) A copy of the map and/or information obtained from the assessor's office to determine the names of the owners of property within one hundred (100) feet of the exterior boundaries of the property which is the subject of the public hearing.

(2) The return receipt cards showing that a copy of the approved legal notice was sent via certified mail, return receipt requested, to the owners of property within one hundred (100) feet of the exterior boundaries of the property which is the subject of the public hearing at least fourteen (14) days prior to the hearing date.

(3) A copy of the published legal notice from the newspaper of general circulation as required by Paragraph (D)(2) of this Section.

(F) Information to Board. Prior to the public hearing, the Town Clerk shall provide each member of the Board with a copy of the appeal or variance permit application and a copy of the information provided by the applicant in accordance with Subsection (E) of this Section. (Ord. 2009-7:1/367)

(G) Record. For each matter that comes before the Board, the Board shall make a record of proceedings, which record shall incorporate, but is not limited to, a finding that the notice as required by Subsection (D) of this Section was proper, any documents, physical evidence or testimony of witnesses considered by the Board in making its determination, a summary of the deliberations of the Board held during the open public hearing and a record of the vote of each present and voting member of the Board.

(H) Variance permits.

(1) Variance permits will be granted only after consideration by the Board of the conditions for a variance set forth in Subsection 2-1-5(C) of this Chapter. The record of proceedings of the Board concerning any variance permit application must include specific written findings of the presence of those conditions set forth in Subsection 2-1-5(C) of this Chapter.

(2) If the Board grants a variance permit, it may impose terms and conditions upon the permit, including but not limited to an expiration date for the variance permit.

(3) Unless otherwise stated in the Board minutes, all variance permits shall expire six (6) months after the date upon which the Board votes to grant such variance permit unless construction or other action is undertaken in accordance with the permit. (Ord. 283, 5-18-95, eff. 6-17-95; Ord. 2009-7:1/367; Ord. 2010-10:1/377)

2-1-7. Appeals from Board's decision.

Any further appeals from the decision of the Board of Adjustment may be made to the court, as provided by law; provided, however, that such appeal is made not later than thirty (30) days after the final decision of the Board. (Ord. 283, 5-18-95, eff. 6-17-95)

2-1-8. Form of legal notice of public hearings before Board of Adjustment.

TOWN OF HOT SULPHUR SPRINGS, COLORADO
NOTICE OF PUBLIC HEARING BEFORE
THE BOARD OF ADJUSTMENT

Pursuant to Section 2-1-6(D) of the Hot Sulphur Springs Town Code, NOTICE IS HEREBY GIVEN that a public hearing is scheduled to be held before the Board of Adjustment for the Town of Hot Sulphur Springs, Colorado, on [DATE] at the Hot Sulphur Springs Town Hall, 513 Aspen Street, Hot Sulphur Springs, Colorado, on the following matter[s]:

[OPTIONAL PARAGRAPHS DEPENDING
ON THE NATURE OF THE HEARING]

Consideration of an application for a variance permit for the property located at [STREET ADDRESS], Hot Sulphur Springs, Colorado, and more fully described as [LEGAL DESCRIPTION]. The variance sought [DESCRIBE NATURE OF VARIANCE SOUGHT].

Consideration of an appeal of a final administrative decision of [DESCRIBE PERSON OR ENTITY WHOSE DECISION IS BEING APPEALED] which affects property located at [STREET ADDRESS], Hot Sulphur Springs, Colorado, and more fully described as [LEGAL DESCRIPTION].

DATED this ____ day of [MONTH], [YEAR].

By: _____
[NAME OF TOWN CLERK]

Published one time in the [Name of Newspaper of General Circulation] on [DATE].

(Ord. 283, 5-18-95, eff. 6-17-95; 2009-7:1/367)

CHAPTER 2

Planning and Zoning Commission

- 2-2-1 Commission established**
- 2-2-2 Commission members**
- 2-2-3 Powers and duties; meetings**

2-2-1. Commission established.

There shall be and hereby is created a Planning and Zoning Commission which shall be known as the Town of Hot Sulphur Springs Planning and Zoning Commission. The Commission shall be comprised of five (5) voting members who shall be appointed by the Board of Trustees and shall be residents of the Town, one of whom shall be a member of the Board of Trustees. (Ord. 294, 11-21-1996)

2-2-2. Commission members.

(A) Terms. The appointed members of the Commission and their terms of office shall be as follows: two (2) members who shall serve for two (2) years, two (2) members who shall serve for four (4) years, and one (1) member, who is also a member of the Board of Trustees, shall serve concurrently with his term.

(B) Attendance. It shall be the duty of the members of the Planning and Zoning Commission to attend all regular and special meetings and workshops of the Commission. If any member of the Commission shall miss three (3) or more meetings and/or workshops in one (1) calendar year, including properly noticed special meetings, such member may be subject to removal from the Commission under the procedure provided by Section 31-23-203(3), C.R.S., as amended. A member shall use his best efforts to inform the Town Clerk of any non-emergency absence from a meeting or workshop at least two (2) days prior to such meeting or workshop. (Ord. 294, 11-21-1996; Ord. 333, 02-20-03)

2-2-3. Powers and duties; meetings.

The Commission shall exercise all the powers and duties provided for in the statutes of the State of Colorado relating to Planning and Zoning Commissions. Said Commission shall hold at least one (1) regular meeting in each month and shall adopt such rules for the transaction of its business as it deems appropriate and shall keep a record of its resolutions, transactions, findings and determinations, which record shall be a public record. The organization and rules of said Commission shall be in conformance with the statutes of the State. (Res. 1976-8, 12-14-1976)