

TITLE 12.B. LAND USE - ADMINISTRATION

CHAPTER 12B-100. Planning Commission.

12B-101. Creation. There is hereby created a Planning Commission to be composed of five members and such alternate members as the Mayor with the advice and consent of the City Council deems appropriate.

12B-102. Compensation. Members of the Planning Commission and alternates, shall be compensated for each commission meeting attended. The rate at which they are to be compensated shall be established each calendar year by resolution of the governing body. Members and alternate members of the Planning Commission shall also be reimbursed for reasonable expenses incurred in performing their duties as members or alternate members of the commission. (Ord. 00-10, Ord. 06-13)

12B-103. deleted Ord. 06-19).

12B-104. Term. The terms of the Planning Commission shall be staggered. Each member of the Planning Commission shall serve for a term of three years and until his successor is appointed, provided that the terms of the members shall be such that the terms of two of the five members shall expire in one year, the terms of the next two members shall expire in the following year and the term of the fifth member shall expire in the third year. Terms of members of the Planning Commission shall begin on or before the first Monday in February of each year. (Ord. 00-10)

12B-105. Removal. The City Council may remove any member of the Planning Commission for cause and after a public hearing, if one is requested. (Ord. 06-19)

12B-106. Vacancy. Vacancies shall be promptly filled in the same manner as the original appointment for the remainder of the un-expired term.

12B-107. Alternate Members.

- (A) Alternate members shall serve in the absence of a member or members of the Planning Commission under rules established by the City Council. No more than two alternate members shall sit at any meeting of the Planning Commission at one time. Alternate members shall be entitled to vote on matters only when they are sitting officially on the Planning Commission in place of an absentee member.
- (B) The term of office for each alternate member shall be a one year term.

12B-108. Organization.

- (A) The members of the Planning Commission shall select from their own members a chairman and such other officers as deemed necessary and shall adopt rules and

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regulations for their organization and for the transaction of business and the conduct of their proceedings.

- (B) Reports of official acts and recommendations of the Planning Commission shall be public and made by the chairman in writing to the governing body and shall indicate how each member of the Commission voted with respect to such act or recommendation. Any member of the Commission may also make a concurring or dissenting report or recommendation to the governing body.
- (C) The Planning Commission shall meet at such times as the Planning Commission may determine.
- (D) Three members of the Planning Commission shall constitute a quorum.

12B-109. Duties and Powers. The Planning Commission shall have all of the powers and duties explicitly or impliedly given Planning Commissions by the laws of the State of Utah and those specified in this Land Use Ordinance.

12B-110. through 12B-117. Deleted by either Ord. 89-2 or 06-19.

CHAPTER 12B-200. Board of Adjustment. Repealed Ord. 06-19.

CHAPTER 12B-300. Building Inspector. Repealed Ord. 06-19

CHAPTER 12B-400. Design Review Board. Repealed Ord. 06-19

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CHAPTER 12B-500. Administrative Design Review.

12B-501. Initial Administrative Design Review. The mayor, or such other person or persons designated by the mayor, is responsible for an initial review of all applications for building permits and charged with the duty to approve and/or attach conditions to design plans and design review applications in accordance with the intent, purpose and standards for design review established pursuant to Chapter 12C-1101(D). This initial review shall be limited to only appearance, site planning, design and general layout and may not require full working drawings.

CHAPTER 12B-600 APPEALS

12B-601. Appeal Authority. The authority to hear requests for variances from the terms of the land use ordinance and appeals from decisions applying the land use ordinances shall be vested in the North Logan Administrative Appeals Hearing Officer.

12B-602. Appointment of Administrative Appeals Hearing Officer. The mayor shall appoint the Administrative Appeals Hearing Officer with the advice and consent of the City Council. The Administrative Appeals Hearing Officer may serve until a replacement is appointed.

12B-603. Appealing Land Use Authority's Decision. An applicant, a board or officer of the City, or any person adversely affected by the land use authority's decision applying a land use ordinance may, within the time period provided in subsection 12B-603(A) below, appeal that decision to the administrative appeals hearing officer by alleging there is error in any order, requirement, decision, or determination made by the land use authority in the decision applying the land use ordinance.

- (A) Time to Appeal. Any appeal, pursuant to section to 12B-603 above, must be filed in writing with the City Recorder within ten calendar days of the issuance of the written decision applying the land use ordinance.
- (B) Time for Hearing Appeal. The Administrative Appeals Hearing Officer should hear the appeal within 15 to 30 days of the date the appeal was filed.
- (C) Written Statement Setting Forth Theories of Relief Required. The appellant shall deliver to the Administrative Appeals Hearing Officer and all other participants, five business days prior to the hearing, a written statement setting forth each and every theory of relief he intends to raise at the hearing, along with a brief statement of facts in support thereof.
- (D) Condition Precedent to Judicial Review. No person, board or officer of the City may seek judicial review of any decision applying the land use ordinance until after challenging the land use authority's decision in accordance with this part. No theory of relief may be

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raised in the District Court unless it was timely and specifically presented to the Administrative Appeals Hearing Officer.

- (E) Standard of Review and Burden of Proof on Appeal. The Administrative Appeals Hearing Officer shall, on appeal, presume that the decision applying the land use ordinance is valid and determine only whether or not the decision is arbitrary, capricious, or illegal. The burden of proof on appeal is on the appellant.
- (F) Due Process Rights. The Administrative Appeals Hearing Officer shall respect the due process rights of each participants.
- (G) Direct Appeal to District Court. Notwithstanding the forgoing, decisions of the City Council relative to adopting or amending the general plan or any other land use ordinance may only be appealed directly to the district court.

12B-604. Variances. Any person or entity desiring a waiver or modification of the requirements of a 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 Administrative Appeals Hearing Officer for a variance from the terms of the ordinance.

- (A)
 - (1) The Administrative Appeals Hearing Officer may grant a variance only if:
 - (a) Literal enforcement of the ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the land use ordinances;
 - (b) There are special circumstances attached to the property that do not generally apply to other properties in the same zone;
 - (c) Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone;
 - (d) The variance will not substantially affect the general plan and will not be contrary to the public interest; and
 - (e) The spirit of the land use ordinance is observed and substantial justice done.
 - (2)
 - (a) In determining whether or not enforcement of the land use ordinance would cause unreasonable hardship under Subsection (A)(1), the Administrative Appeals Hearing Officer may not find an unreasonable hardship unless the alleged hardship:
 - (i) Is located on or associated with the property for which the variance is sought; and

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- (ii) Comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood.
 - (b) In determining whether or not enforcement of the land use ordinance would cause unreasonable hardship under Subsection (A)(1), the Administrative Appeals Hearing Officer may not find an unreasonable hardship if the hardship is self-imposed or economic.
- (3) In determining whether or not there are special circumstances attached to the property under Subsection (A)(1), the Administrative Appeals Hearing Officer may find that special circumstances exist only if the special circumstances:
 - (a) Relate to the hardship complained of; and
 - (b) Deprive the property of privileges granted to other properties in the same zone.
- (B) The applicant shall bear the burden of proving that all of the conditions justifying a variance have been met.
- (C) Variances run with the land.
- (D) The appeal authority may not grant a use variance.
- (E) In granting a variance, the appeal authority may impose additional requirements on the applicant that will:
 - (1) Mitigate any harmful affects of the variance; or
 - (2) Serve the purpose of the standard or requirement that is waived or modified.