



Section 2501—General:

The Board of Adjustment (BOA), as provided by §10-9a *et. seq.* U.C.A., as amended, is hereby authorized to consider applications for variances, as defined. If the BOA finds that an unreasonable hardship, as defined herein, will result from the strict compliance with the provisions of this Ordinance, the BOA may approve a variance to the requirements of this Ordinance so that substantial justice may be done and the public interest secured, provided the variance shall not have the effect of nullifying in any way the intent and purpose of this Ordinance.

Section 2502—Application Required, Review and Approval Procedures:

- 1) An application for a Variance shall be made on the application, provided by the City.
- 2) A Variance application shall be determined complete by the Zoning Administrator, as provided by Section 1207, herein. For variance applications determined to be incomplete, the Zoning Administrator shall comply with the requirements of Section 1208, herein.

Section 2503—Use Variance Prohibited:

The BOA may not authorize the establishment of a use other than those uses as identified in the Table of Uses, Chapter 17.

Section 2504—Standards:

The BOA shall not approve a variance application unless, based upon the evidence presented, it finds that all of the following apply;

- 1) Literal enforcement of the provisions of this Ordinance would cause an unreasonable hardship for the applicant with the applicant providing evidence that the hardship is located on, or associated with the subject property, for which the variance is sought, and is peculiar to the property rather than conditions generally existing on other properties in the in same zoning district or immediate area.
- 2) The identified hardship is not self-imposed.
- 3) The identified hardship is not economic in nature.
- 4) There exist special circumstances attached to the property that do not apply to other properties in the same zoning district. The BOA may find an unreasonable hardship exists only if the alleged hardship is located on or associated with the property for which the variance is sought and comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood.
- 5) The variance is essential to the enjoyment of a substantial property right possessed by other property in the same zoning district. The BOA may find that special circumstances are attached to the property exist only if the special circumstances relate to the hardship complained of and deprive the property of privileges granted to other properties in the same zoning district.

6) The granting of the variance will not be contrary to the public interest.

Section 2505—Conditions:

In approving any Variance Application, the BOA may require such conditions that in the judgment of the BOA are necessary to mitigate any negative effects of granting the variance and to secure the purposes of this Ordinance.

Section 2506—Effect of Granting a Variance:

Following a final decision of a Variance Application, the BOA Recording Secretary shall provide the applicant with a written notice of the decision. The record of all variance applications shall be maintained by the BOA Recording Secretary and the City Recorder. The granting of a variance shall not authorize the establishment or extension of any use, nor the development, construction, reconstruction, alteration or moving of any building or structure, but is a prerequisite to the preparation, filing, review, and determination of any approval, permit, or license that may be required by this Ordinance.

Section 2507—Time Limitation:

A variance approval shall expire and shall be invalid unless a building permit is issued within one (1) year from the date of approval. If a building permit is not issued within one (1) year from date of variance approval the approval shall be void and a new variance application required