

SECTION 6: ADJUSTMENTS, VARIANCES AND APPEALS

6.1 Policy and Intent

It is the policy of the Board to provide for relief in case of hardship, and a process of appeal to govern situations in which parties affected by these zoning regulations allege improper administrative actions.

6.2 Board of Adjustment Created

To carry out the intent and policy of the Board, a Board of Adjustment is hereby created.

6.2:1 Board of Adjustment Members

The Board of Adjustment shall consist of five voting members, all of whom shall be appointed, serve, and be removed in accordance with the provisions of Chapter 36.70 RCW. One member of the Board of Adjustment shall be an appointed member of the Planning Commission.

6.2:2 Board of Adjustment: Quorum

The presence of three voting members shall constitute a quorum.

6.2:3 Duties and Powers: Board of Adjustment

The jurisdictional duties and powers of the Board of Adjustment are as follows:

1. Hearing and deciding applications for conditional uses (principal and accessory) expressly provided for in certain districts.
2. Application for variances from the terms of this ordinance; provided, that any variance granted shall be subject to such conditions as will assure that the adjustment thereby authorized shall not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and district in which subject property is situated, and that the following circumstances are found to apply:
 - (a) because of special circumstances applicable to subject property, including size, shape, topography, location or surroundings, the strict application of this ordinance is found to deprive subject property of rights and privileges enjoyed by other properties in the

vicinity and under identical zoning district classifications;

- (b) that the granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zoning district in which subject property is situated.

- 3. Appeals, where it is alleged by the applicant that there is error in any order, requirement, permit, decision, determination made by an administrative official in the administration or enforcement of this ordinance.

6.3 Appeals - Time Limit

Appeals may be taken to the Board of Adjustment by any person aggrieved, or by any officer, department, board or bureau affected by any decision of an administrative official. Such appeals shall be filed in writing in duplicate with the Board of Adjustment within twenty (20) days of the date of the action being appealed.

6.4 Notice of Time and Place of Hearing

Upon the filing of an application for a conditional use permit or a variance, the Board of Adjustment shall set the time and place for a public hearing in such matter, and written notice thereof shall be mailed to all property owners of record within a radius of three hundred (300) feet of the exterior boundaries of the subject property. The written notice shall be mailed no less than fourteen (14) days prior to the hearing.

6.5 Appeal - Notice of Time and Place

Upon the filing of an appeal from an administrative determination, or from the action of the Director of Planning, the Board of Adjustment shall set the time and place at which the matter will be considered. At least a fourteen (14) day notice of such time and place, together with one copy of the written appeal, shall be given to the official whose decision is being appealed. At least fourteen (14) days notice of the time and place shall also be given to the adverse parties of record in the case. The official from whom the appeal is being taken shall forthwith transmit to the Board of Adjustment all of the records pertaining to the decision being appealed from, together with such additional written report as he deems pertinent.

6.6 Scope of Authority on Appeal

In exercising the powers granted herein, the Board of Adjustment may reverse or affirm, wholly or in part, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as should be made and, to that end, shall have all the powers of the official from whom the appeal is taken, insofar as the decision on the particular issue is concerned.

6.7 Board of Adjustment - Action Final

The action by the Board of Adjustment on an application for a conditional use permit or a variance, or on an appeal from the decision of the Director of Planning or an administrative officer shall be final and conclusive unless within ten (10) days from the date of said action the original applicant or an adverse party makes application to a court of competent jurisdiction for a writ of certiorari, a writ of prohibition or a writ of mandamus.

6.8 Inclusion of Findings of Fact

The Board of Adjustment shall, in making an order, requirement, decision or determination, include in a written record of the case the findings of fact upon which the action is based.

6.9 Appeals to Board of County Commissioners

Any interested citizen or administrative officer of the County may appeal to the Board from rulings of the Planning Commission where such ruling allegedly is adverse to his interests. Written notice of appeal from such rulings shall be filed within fourteen (14) days from such ruling. Thereupon the Planning Commission shall forthwith transmit to the Board all papers constituting the record upon which the ruling was made. The Board at its hearing may receive such further evidence as seems relevant. After a hearing the Board may overrule or alter the decision of the Planning Commission by a majority vote of the full board.

6.10 Application Procedure

An application for a variance, conditional use permit, or appeal shall be filed with the Director of Planning on a form provided by the Director. Application must be accompanied by a check made payable to the County in

the sum set by ordinance of the Board of County Commissioners which shall be non-refundable and used to cover costs incurred in processing such application.