



PL No. \_\_\_\_\_

Date \_\_\_\_\_

# Application Board of Adjustments

**A. Applicant's Name** \_\_\_\_\_

Home Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Telephone # \_\_\_\_\_ Mobile # \_\_\_\_\_

E-mail Address \_\_\_\_\_

Applicants Interest Is:  Owner  Prospective Buyer  Real Estate Agent  Other

**B. Property Information**

1. Property Address \_\_\_\_\_

2. Sidwell/Tax ID# \_\_\_\_\_ Total Acreage of the Site \_\_\_\_\_

3. Current Zoning of the Proposed Site \_\_\_\_\_

Zoning of Adjacent Parcels: North \_\_\_\_\_ South \_\_\_\_\_ East \_\_\_\_\_ West \_\_\_\_\_

4. Current Use of Land \_\_\_\_\_

**C. Variance Information**

1. Brief Description of Variance Request \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. The applicant is required to prove that all conditions justifying a variance have been met.

After reading each section below describing the justifications for a variance, provide a brief explanation of how your request complies. Attach additional sheets if necessary, and your response should include drawings, photos, and other descriptive information to help illustrate your point. This application sheet along with other submitted materials will be submitted to the Hearing Officer to aid in his/her review and decision.

Before any variance may be authorized, it must be shown that:

1) 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;

a) In determining whether or not enforcement of the land use ordinance would cause unreasonable hardship under Subsection (1) above, the Board may not find an unreasonable hardship unless the alleged hardship:

Revised 10/16

- i) Is located on or associated with the property for which the variance is sought; and
  - 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 (1) above, the appeal authority may not find an unreasonable hardship if the hardship is self-imposed or economic.

Response: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

- 2) There are special circumstances attached to the property that do not generally apply to other properties in the same zone;
- a) In determining whether or not there are special circumstances attached to the property under Subsection (2) above, the appeal authority may find that special circumstances exist only if the special circumstances:
    - i) Relate to the hardship complained of; and
    - ii) Deprive the property of privileges granted to other properties in the same zone.

Response: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

- 3) Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone;

Response: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

PL No. \_\_\_\_\_

Date \_\_\_\_\_

4) The variance will not substantially affect the general plan and will not be contrary to the public interest; and

Response: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

5) The spirit of the land use ordinance is observed and substantial justice done.

Response: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Other information that may be valuable in review of this variance request:**

Response: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**I / (We) understand that if granted, this variance pertains only to that property and use as defined herein and may be revoked at any time if provisions of the granting are violated. Any construction or modification of existing structures must comply with all applicable Riverton City Ordinance standards, except as allowed by action of the Board, and of the International Building and Fire Codes.**

***Please note that for your convenience, an application checklist is enclosed.***

\_\_\_\_\_  
*Applicant's Signature*

\_\_\_\_\_  
*Date*

PL No. \_\_\_\_\_

Date \_\_\_\_\_

# APPLICATION CHECKLIST

## BOARD OF ADJUSTMENTS

TO BE COMPLETED PRIOR TO ACCEPTANCE OF APPLICATION

Project Name: \_\_\_\_\_

Project Address: \_\_\_\_\_

Date: \_\_\_\_\_

### Pre-Application Conference

Date \_\_\_\_/\_\_\_\_/\_\_\_\_ Staff Initial \_\_\_\_\_

### Complete Application Items

- Ownership Affidavit Signed and Notarized
- Accurate drawings, photos, etc indicating your variance request including, but not limited to: existing and/or proposed building dimensions, lot dimensions, existing and/or proposed site features such as fencing, driveways, etc.

**The Board of Adjustment may require additional information to assist in review of your variance request.**

### Application Fees

Board of Adjustments		\$275.00
<b>Total</b>		

### NOTES:

*Please refer to the included Riverton City Ordinance 2.80, Board of Adjustment, and Utah State Code 10.9a.702, Variances, for the complete terms of a variance.*

#### Riverton City Use Only

Submitted to BOA \_\_\_\_\_  Determination \_\_\_\_\_

**OWNERSHIP AFFIDAVIT**

PROPERTY OWNER

I/we, \_\_\_\_\_, \_\_\_\_\_ being duly sworn, depose and say that I/we am/are the owner(s) of the property identified in the attached application and that the statements herein contained and the information provided in the attached plans and other exhibits are in all respects true and correct to the best of my/our knowledge. I/we also acknowledge that I/we have received written instructions regarding the application for which I/we am/are applying and understand that the attached application will be required to comply with any and all applicable standards and ordinances of Riverton City.

\_\_\_\_\_  
(Property Owner)

\_\_\_\_\_  
(Property Owner)

Dated this \_\_\_ day of \_\_\_\_\_, 20\_\_\_, personally appeared before me \_\_\_\_\_, \_\_\_\_\_, the signer(s) of the agent authorization who duly acknowledged to me that they executed the same.

\_\_\_\_\_  
(Notary)  
Residing in \_\_\_\_\_ County, Utah

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AGENT AUTHORIZATION (If application will be in the name of someone other than the Owner(s))

I/we, \_\_\_\_\_, \_\_\_\_\_, the owner(s) of the real property described in the attached application, do authorize as my/our agent(s)

\_\_\_\_\_  
(Agent)

to represent me/us regarding the attached application and to appear on my/our behalf before any administrative or legislative body in the City considering this application and to act in all respects as our agent in matters pertaining to the attached application, and will comply with any and all applicable standards and ordinances of Riverton City.

\_\_\_\_\_  
(Property Owner)

\_\_\_\_\_  
(Property Owner)

Dated this \_\_\_ day of \_\_\_\_\_, 20\_\_\_, personally appeared before me \_\_\_\_\_, \_\_\_\_\_, the signer(s) of the agent authorization who duly acknowledged to me that they executed the same.

\_\_\_\_\_  
(Notary)  
Residing in \_\_\_\_\_ County, Utah

**Chapter 2.80**  
**BOARD OF ADJUSTMENT**

Sections:

[2.80.010 Creation of the board of adjustment.](#)

[2.80.020 Appointment, term of office, and removal.](#)

[2.80.030 Officers and organization.](#)

[2.80.040 Quorum.](#)

[2.80.050 Duties and powers.](#)

[2.80.060 Board of adjustment to act in quasi-judicial manner.](#)

[2.80.070 Notice.](#)

[2.80.080 Judicial review of decisions.](#)

[2.80.090 Compensation.](#)

**2.80.010 Creation of the board of adjustment.**

In order to provide for just and fair treatment of local zoning ordinances, and to ensure that substantial justice is done, a board of adjustment is created to exercise the powers and duties provided hereafter. [Ord. 15-23 § 1 (Exh. A); Ord. 6-2-98-1M § 1; Ord. 4-15-97-1 § 2(12-140-A). Code 1997 § 12-130-005.]

**2.80.020 Appointment, term of office, and removal.**

The board of adjustment shall consist of one member, and two alternates, each to be appointed by the mayor with advice of the city council for a term of five years, and until his/her successor is appointed. Any member of the board of adjustment may be reappointed at the end of that member's term in office. Each member of the board of adjustment shall possess sufficient knowledge of the Utah Land Use Development and Management Act and all city codes to render decisions on appeals which comply with all applicable legal standards found therein.

Any member may be removed for cause by the city council upon written charges and after a public hearing, if such public hearing is requested. Vacancies shall be filled promptly for the unexpired term of any member whose term becomes vacant. [Ord. 15-23 § 1 (Exh. A); Ord. 6-2-98-1M §§ 1, 2 (Exh. A § 12-145-010); Ord. 4-15-97-1 § 2(12-140-B). Code 1997 § 12-130-010.]

**2.80.030 Officers and organization.**

The board of adjustment may adopt rules and procedures for its own proceedings as deemed

necessary.

Meetings of the board shall be scheduled in compliance with the Utah Open Public Meetings Act. The board shall keep minutes of its proceedings, showing the decision rendered by the board. The board shall keep records of its examinations and other official actions, all of which shall immediately be filed in the office of the recorder/clerk, which shall be the office of the board, and shall be public record. All meetings of the board of adjustment shall be open to the public. [Ord. 15-23 § 1 (Exh. A); Ord. 6-2-98-1M § 1; Ord. 4-15-97-1 § 2(12-140-C). Code 1997 § 12-130-015.]

#### **2.80.040 Quorum.**

Only one member of the board may render a decision of the board of adjustment. In the event a member is unable to attend a board of adjustment meeting or otherwise render a decision, the matter shall be referred to an alternate member of the board to render a decision. Alternates shall be selected to decide upon any matter by rotation, subject to the availability of an alternate. [Ord. 15-23 § 1 (Exh. A); Ord. 6-2-98-1M §§ 1, 2 (Exh. A § 12-145-015). Code 1997 § 12-130-020.]

#### **2.80.050 Duties and powers.**

Appeals and variances may be decided by the board of adjustment and may be taken in conformance with the provisions of this section by any person aggrieved or by any officer, department, board or bureau or municipality affected by any decision by the administrative officer. The duties and powers of the board of adjustment shall be:

(1) Appeals. The applicant, a board or officer of the municipality, or any person adversely affected by the planning commission or any administrative official's decision administering or interpreting a land use ordinance may, within applicable time periods described in RCC Title 17 or 18, appeal that decision to the appeal authority by alleging that there is error in any order, requirement, decision, or determination made by the land use authority in the administration or interpretation of the land use ordinance.

(2) Variances. To authorize upon appeal such variances for the terms of RCC Title 18 as will not be contrary to the public interest and safety, where owing to special conditions a literal enforcement of the provisions of RCC Title 18 will result in unnecessary hardship; provided, that the spirit of RCC Title 18 shall be observed and substantial justice is done. Before any variance may be authorized, however, it shall be shown that:

(a) The variance will not substantially affect the comprehensive plan of zoning of Riverton City and that adherence to the strict letter of RCC Title 18 will cause difficulties and hardships, the imposition of which upon the petitioner is unnecessary in order to carry out the general purpose of the plan.

(b) There are special circumstances attached to a property covered by an application that do not generally apply to other properties in the same district.

(c) Because of said special circumstances, property covered by an application is deprived of privileges possessed by other properties in the same district, and that the granting of the variance is essential to the enjoyment of a substantial property right possessed by other property in the same district.

(3) To hear and make determinations regarding the existence, expansion, or modification of nonconforming uses.

(4) To hear appeals from a fee charged under authorization of Utah Code Section 10-9a-510.

(5) To have all the powers and duties explicitly or implicitly given to any board of adjustment by the state of Utah. [Ord. 15-23 § 1 (Exh. A); Ord. 6-2-98-1M §§ 1, 2 (Exh. A § 12-145-020); Ord. 4-15-97-1 § 2(12-140-D). Code 1997 § 12-130-025.]

#### **2.80.060 Board of adjustment to act in quasi-judicial manner.**

The board of adjustment shall act in a quasi-judicial manner and serve as the final arbiter of issues properly brought before it. The filing of an appeal shall stay all proceedings and actions in furtherance of the matter appealed, pending a decision of the board of adjustment. The standard of review on appeal for all matters brought before the board of adjustment shall not be de novo, but shall be based on a review of the record to determine whether an appealable interpretation, decision, determination, or requirement is supported by ordinance and based upon substantial evidence. [Ord. 15-23 § 1 (Exh. A); Ord. 6-2-98-1M § 1; Ord. 4-15-97-1 § 2(12-140-E). Code 1997 § 12-130-030.]

#### **2.80.070 Notice.**

Notices of public meeting before the board of adjustment shall be given at least 15 calendar days prior to the meeting. Notice shall be given by publication in accordance with the Utah Open Public Meetings Act. The cost of publication shall be borne by the applicant. [Ord. 15-23 § 1 (Exh. A); Ord. 6-2-98-1M § 1; Ord. 4-15-97-1 § 2(12-140-F). Code 1997 § 12-130-035.]

#### **2.80.080 Judicial review of decisions.**

The city or any person aggrieved by any decisions made by the board of adjustment may have and maintain an essential right to appeal such decisions to a court of competent jurisdiction, namely the Salt Lake County Third District Court; provided, that such appeal is presented to the court within 30 days after the board of adjustment decision has been filed in the office of the city recorder. [Ord. 15-23 § 1 (Exh. A); Ord. 6-2-98-1M § 1; Ord. 4-15-97-1 § 2(12-140-G). Code 1997 § 12-130-040.]

#### **2.80.090 Compensation.**

The members of the board of adjustment shall serve without compensation except for reasonable expenses as determined by the city council. Reimbursement for expenses shall be paid to the members on a per meeting basis. [Ord. 15-23 § 1 (Exh. A); Ord. 6-2-98-1M § 1; Ord. 4-15-97-1 § 2(12-140-H). Code 1997 § 12-130-045.]



**10-9a-702 Variances.**

- (1) 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 applicable appeal authority for a variance from the terms of the ordinance.
- (2)
  - (a) The appeal authority may grant a variance only if:
    - (i) 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;
    - (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 Subsection (2)(a), the appeal authority 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 the land use ordinance would cause unreasonable hardship under Subsection (2)(a), the appeal authority 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 appeal authority may find that special circumstances exist only if the special circumstances:
    - (i) relate to the hardship complained of; and
    - (ii) deprive the property of privileges granted to other properties in the same zone.
- (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 appeal authority may not grant a use variance.
- (6) In granting a variance, the appeal authority 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.

Renumbered and Amended by Chapter 254, 2005 General Session